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Security Council

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27 February 2004

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Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 27 August 2003 (S/2003/838), transmitting a third report from Cuba submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Cuba to the United Nations to set out its preliminary comments. Cuba has been requested to provide a response in the form of a fourth report by 13 May 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Security Council

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Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 16 July 2003 (S/2003/773), transmitting a third report from Colombia submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Colombia to the United Nations to set out its preliminary comments. Colombia has been requested to provide a response in the form of a fourth report by 13 May 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Security Council

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Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 29 July 2003 (S/2003/775), transmitting a third report from Chile submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Chile to the United Nations to set out its preliminary comments. Chile has been requested to provide a response in the form of a fourth report by 13 May 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Security Council

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Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 5 September 2003 (S/2003/860), transmitting a third report from New Zealand submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of New Zealand to the United Nations to set out its preliminary comments. New Zealand has been requested to provide a response in the form of a fourth report by 30 April 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Security Council

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27 February 2004

Original: English

Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 16 September 2003 (S/2003/897), transmitting a third report from the Netherlands submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of the Netherlands to the United Nations to set out its preliminary comments. The Netherlands has been requested to provide a response in the form of a fourth report by 30 April 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Security Council

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27 February 2004

Original: English

Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 31 July 2003 (S/2003/787), transmitting a third report from Hungary submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of Hungary to the United Nations to set out its preliminary comments. Hungary has been requested to provide a response in the form of a fourth report by 30 April 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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United Nations S/2004/155

Security Council

Distr.: General
27 February 2004

Original: English

Letter dated 27 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I refer to my letter of 23 June 2003 (S/2003/670), transmitting a second report from the Congo submitted to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001).

The Counter-Terrorism Committee has considered the report carefully, with the assistance of its experts, and has written to the Permanent Representative of the Congo to the United Nations to set out its preliminary comments. The Congo has been requested to provide a response in the form of a third report by 17 May 2004.

I should be grateful if you could arrange for the present letter to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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United Nations S/2004/156

Security Council

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27 February 2004

Original: English

Letter dated 23 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 December 2003 (S/2003/1156). The Counter-Terrorism Committee has received the attached third report from Belgium submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-25614 (E) 110304 220304

Annex

Letter dated 23 February 2004 from the Permanent Representative of Belgium to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: French]

I have the honour to transmit herewith the third report of Belgium on the implementation of Security Council resolution 1373 (2001) (see enclosure). The report provides answers to the questions in your letter of 21 November 2003.

(*Signed*) Jean **de Ruyt**
Ambassador
Permanent Representative of Belgium to the United Nations

Enclosure

[Original: English/French]

Belgium's responses to the third set of CTC questions

1.1 The CTC has agreed on further questions and comments for the consideration of the Government of Belgium with regard to the implementation of the Resolution, as set out in this section.

1.2 In regard of the effective implementation of sub-par. 1 (a) of the Resolution, could Belgium provide the CTC with the provisions in its laws, which oblige financial institutions to identify their clients and to report suspicious transactions to the Belgian Financial Intelligence Processing Unit or other relevant authorities?

Belgium wishes to refer to the recent law of 12 January 2004, which amends the money-laundering law of 11 January 1993 in order to incorporate into Belgian law the Second European Directive on the prevention of the use of the financial system for the purpose of money-laundering (2001/97/CE), the 40 new Recommendations and the 8 Special Recommendations of the Financial Action Task Force on Money Laundering (FATF).

Provisions with regard to client identification were clarified by the recent amendment and call for constant vigilance in order to ensure that the transactions that are performed are consistent with the knowledge that the declarants have of their clients, their risk profiles or their source of funds.

Provisions concerning the reporting of suspicious transactions to the Belgian Financial Intelligence Processing Unit (BFIPU) are referred to in the above-mentioned law in compliance with the European Directive. In certain cases, lawyers are covered by anti-money-laundering legislation and should address their reports on suspicious transactions to the president of the bar under whose jurisdiction they operate. The president shall check that such report is in compliance with the legal obligation of lawyers and promptly transmit the information to BFIPU.

Could Belgium inform the CTC as to the penalties prescribed by law for the violation of those reporting obligations?

The oversight or supervisory authority or relevant disciplinary authority shall rule on the penalties to be imposed on declarants for violation of their obligations under the law of 11 January 1993. In addition to such general penalties as official warnings or withdrawal of licences, the law also prescribes two specific penalties which allow the oversight or supervisory authority or disciplinary authority both to publish the decisions and measures taken and to impose an administrative fine of not less than 250 euros and not more than 1,250,000 euros.

In particular with regard to the proposal to bring lawyers within the scope of anti-money laundering legislation (see p. 6 of the supplementary report), the CTC would welcome learning whether the relevant new legal provisions have come into force.

The law of 12 January 2004 was published in the *Moniteur belge* of 23 January 2004 and came into force on 2 February 2004.

A consolidated version of the law is available in French at the BFIPU web site (www.ctif-cfi.be).

1.3 The CTC has information that the Belgian Council of Ministers has recently agreed on a new draft law that makes special provisions for a wide range of terrorist offences, but at the same time, preserving basic human rights. In this regard, the CTC would appreciate receiving a detailed outline of the referred draft and a progress report on its enactment.

The draft law was adopted on 19 December 2003, published in the *Moniteur belge* on 29 December 2003 and entered into force on 18 January 2004. It amends the following articles of the Penal Code.

Articles 137 to 141 of the Penal Code define "terrorist offences" and prescribe penalties for them, define "terrorist group", "involvement in a terrorist group" and "aiding and abetting the commission of a terrorist offence".

Article 141 defines the scope of those provisions relating to terrorism. Now that the financing of terrorism has become a major criminal offence, the current Criminal Code provides for the prosecution of attempted terrorism or the mere act of preparing for such an act.

Such counter-terrorism provisions may neither reduce nor infringe on such fundamental freedoms as the right to strike, the right to freedom of assembly, freedom of association or expression, including the right to form and to join trade unions for the protection of his interests.

The text of the law is available at the following web site: http://www.ejustice.just.fgov.be/cgi/summary.pl. (Next, type in the date of the act, press enter and then select the title in the required legislation.)

1.4 With regard to the effective implementation of par. 1, the CTC would appreciate receiving an outline of the regulations which govern informal banking practices and alternative remittance agencies involved in the transfer of funds in Belgium. In their absence, could Belgium outline the steps which it intends to take in order fully to comply with this aspect of the Resolution.

Informal funds transfer systems are forbidden in Belgium. The new provisions of the law of 11 January 1993 aim at linking the mechanism for the prevention of money-laundering and terrorism financing operations to the provision of unlicensed funds transfer services. That law makes it mandatory to identify clients wishing to transfer funds. The financial agencies concerned must keep track of all such information also when acting as intermediaries in a chain of payment transactions.

1.5 Belgium refers to legal provisions regulating the seizure and confiscation of the funds of charities involved in the financing of terrorism. The effective implementation of par. 1 of the Resolution requires the establishment of an appropriate monitoring mechanism (involving, f.ex., registration and auditing requirements) to ensure that funds collected by organizations, which have or claim to have charitable, social or cultural goals, are not diverted to purposes other than their stated purposes, in particular for the financing of terrorism. In this regard the CTC would appreciate receiving an outline of the legal provisions and the administrative mechanism, which Belgium put in place in this regard.

Freedom of association is enshrined in article 27 of the Constitution and guaranteed by the law of 24 May 21.

As far as charities are concerned, Belgium wishes to refer here to the law of 27 June 1921, which governs associations and foundations, amended by the law of 2 May 2002 on non-profit-making organizations, international non-profit-making organizations and foundations.

The text of the law is available at the following web site: http://www.ejustice.just.fgov.be/cgi/summary.pl. (Next, type in the date, press Enter and then select the title in the desired legislation.)

The following information on non-profit-making associations is on file at the office of the clerk of the commercial law court:

1. Their founding documents;

2. Regulations concerning the appointment and termination of service of directors and, where necessary, the persons responsible for day-to-day management or authorized to represent the association, the board members;

3. The register of members;

4. Decisions relating to the annulment or liquidation of the non-profit-making association;

5. Annual statements of accounts;

6. The comprehensive text of the founding documents as amended.

Large non-profit-making associations (with more than 100 employees or two of the following three criteria: either 50 employees, revenues of 3,150,000 euros and a balance sheet of 6,250,000 euros) are required by law to appoint an auditor who is a member of the institute of company auditors.

An audit of such bodies corporate may also be conducted through the fiscal obligation to file income tax returns annually as well as through the countervailing charge on inheritance tax.

In that regard, BFIPU can be considered as a sort of monitoring mechanism. This Unit's work basically focused more on detecting money-laundering offences than on combating the financing of terrorism. Obviously, terrorist organizations are also guilty of the crime of money-laundering, since they are often funded from such illicit activities as prostitution, trafficking in human beings, narcotics or forged documents. As a result of the recent change in the law, the investigation of the financing of terrorism now falls directly within the Unit's ambit.

Lastly, the Public Prosecutor has a broad mandate for monitoring the behaviour of bodies corporate.

1.6 The CTC notes from Belgium's supplementary report that the funds, financial assets and economic resources of persons who commit, attempt to commit or facilitate the commission of terrorist acts in Belgium or against another State can only be frozen if those persons are being prosecuted or are named in a list drawn up by the United Nations Security Council and/or referred to in the corresponding EU Regulations. In this regard could Belgium outline its existing legal or administrative provisions concerning the freezing of

assets of terrorists and terrorist organizations which are not on the lists of regulations referred to immediately above?

In this regard the CTC notes that the legal provisions in place should provide for the freezing of funds, regardless of origin, even if they are:

- **suspected of being linked to terrorism, but have not as yet been used to commit a terrorist attack**
- **linked to terrorist activities which have not as yet caused any material damage.**

There are no civil or criminal provisions that provide for the seizure of assets of alleged terrorists or terrorist organizations named in a list drawn up by the United Nations or the European Union. Only in the context of a judicial investigation can the seizure of assets suspected of being linked to terrorism be authorized. A criminal court judge shall decide on what should be done with such assets. Financial institutions should trace suspicious movements of funds that might be used to finance terrorism and then take specific measures by way of forwarding such information to BFIPU and the Office of the Prosecutor.

The law of 11 January 1993 provides that BFIPU may, given the seriousness or urgency of a matter, put a hold on a transaction if a suspicious transaction report is filed beforehand (i.e. the normal procedure).

The stoppage period has been extended from 24 to 48 hours by the law of 12 January 2004. Should BFIPU feel that such period should be further extended, it shall immediately so inform the Crown Prosecutor or the Federal Prosecutor, who shall take the necessary decisions.

For the record, the answer to question 1.3 above indicates that it may be possible under the law against acts of terrorism of 19 December 2003 to prosecute attempted terrorism or preparatory acts. This is particularly applicable to the financing of terrorism, which may be punishable by the freezing of assets, including through preventive attachment. Such a measure is at the discretion of the investigating judge, who decides on a case-by-case basis.

1.7 With regard to the implementation of sub-paragraph 2 (a) of the Resolution, could Belgium outline the sanctions in force for violating Belgian law concerning the manufacture, sale, possession, storage, import, export and transport of weapons and explosives within its territory.

Belgium does not have anything further to add to its response to this point set out in its supplementary report (page 5).

For the record, the sanctions are a fine of from 100 to 10,000 euros and a term of imprisonment of one month to thirty-six months. If the weapons concerned are prohibited, they are confiscated. Should the offence be repeated by the body corporate within a period of two years, its offices may be closed down.

1.8 The CTC notes that the special provisions in the Belgian Penal Code do not criminalize the recruitment of members of terrorist groups. In this regard the CTC would appreciate receiving an outline of the steps, which Belgium intends to take in order fully to implement this aspect of the Resolution.

New articles 139, 140 and 141 of the Penal Code define "terrorist group", "participation in a terrorist group" and "aiding and abetting the commission of a terrorist offence". They specifically cover the provision of information or material resources to terrorist groups or any form of financing of such groups. Therefore, the recruitment of terrorists becomes a criminal offence.

It should be noted that, with regard to the recruitment of mercenaries (insofar as they can be considered as terrorists) for service abroad, Belgium has enacted the law of 1 August 1979 on serving on a foreign army or troop situated in the territory of a foreign State.

1.9 Belgium indicates that Belgian courts do not have jurisdiction over a foreign national who is accused of having committed a terrorist act abroad. How then would Belgium deal with a foreign national who is present in Belgium and is suspected of having committed a terrorist act abroad? Would Belgium apply the international law principle "prosecute or extradite" (aut dedere aut judicare) in such a case?

In addition to conventional territorial jurisdiction, the new Belgian law provides for active personal jurisdiction over new terrorist offences. Belgium has also provided for Belgian courts to have jurisdiction over terrorist acts committed abroad by foreign nationals but only where such offences are committed against a Belgian national or institution, a European Union institution or against an agency established pursuant to the European Economic Community or European Union Treaty whose headquarters is located in Belgium.

Lastly, whenever an international counter-terrorism treaty to which Belgium is a signatory obliges States Parties to extend their extraterritorial jurisdiction, article 12 of the preliminary part of the Code of Criminal Procedure automatically incorporates these new jurisdictions into law.

1.10 et 1.11 Could Belgium indicate whether its existing legislation provides for extradition and mutual assistance on the ground of reciprocity or on the basis of international agreements only? Please indicate whether, in cases where an application for the extradition of an alleged terrorist has been turned down, Belgium will apply the international law principle "aut dedere aut judicare"? In particular, the CTC would appreciate receiving an outline of the steps which Belgium would take in the case of a foreign national whose extradition was not granted on the basis that the crime in question was likely to constitute a "political act or politically related act"...

The CTC would be grateful for information concerning the legal or other measures, which enable the Belgian authorities to provide assistance in criminal investigations and judicial proceedings as required by the Resolution. Does Belgium have a law providing for mutual assistance in criminal investigations and judicial proceedings? Could Belgium outline its mutual legal assistance provisions in general and, more particularly, as regards requests for the freezing, seizure and confiscation of property or valuables?

Belgium is not bound by any specific counter-terrorism conventions which, as in the case of narcotics, provide an independent basis for extradition outside the framework of bilateral or multilateral extradition conventions.

However, extradition for the commission of terrorist acts may be granted on the basis of the European Convention on Extradition of 13 December 1957, the Benelux Treaty on Extradition and Mutual Assistance in Criminal Matters of 27 June 1962 and bilateral extradition conventions that provide for a minimum sentence (as is the case, for example, of the Convention on Extradition between Belgium and the United States of America of 27 April 1987).

In contrast, while the great majority of bilateral extradition conventions binding on Belgium specify offences, terrorism is not one of them.

1.12

The framework decision on the definition of acts of terrorism was incorporated into Belgian domestic law by the law of 19 December 2003, mentioned in the answer to question 1.2. Thus, penalties under Belgian law for terrorist offences have been brought into line with international standards.

Concerning the ratification of the International Convention for the Suppression of the Financing of Terrorism, the legislative procedures have been completed, since the Federal Parliament (the Chamber and the Senate) has adopted the text. What remains is the apposition of the signatures of the competent ministers on both the law and the instrument of ratification, as well as the King's signature, before the instrument of ratification can be deposited with the United Nations in New York. It should be noted, however, that the law of 19 December 2003 gives effect to the Convention as a whole on Belgian territory, since the framework decision on the basis of which the law was promulgated drew considerably on the Convention.

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Security Council

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Letter dated 23 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 December 2003 (S/2003/1150). The Counter-Terrorism Committee has received the attached fourth report from the United Kingdom of Great Britain and Northern Ireland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-25620 (E) 230304

Annex

Letter dated 23 February 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Annexed to the present letter is the fourth report of the United Kingdom of Great Britain and Northern Ireland submitted in response to your letter of 21 November 2003 (see enclosure). The United Kingdom stands ready to submit any further information requested by the Counter-Terrorism Committee on the implementation of resolution 1373 (2001).

(*Signed*) Emyr **Jones Parry**

Enclosure*

Fourth report of the United Kingdom of Great Britain and Northern Ireland to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

1. Implementation Measures

Effectiveness in the protection of the financial system

1.1 Effective implementation of sub-paragraph 1 (a) requires States to have in place effective executive machinery for preventing and suppressing the financing of terrorist acts. In this regard does the United Kingdom provide training to its administrative. investigative, prosecutorial and judicial authorities on the enforcement of laws related to:

- typologies and trends in terrorist financing methods and techniques:

Training to law enforcement officers in techniques for the investigation of terrorist financing is provided by the National Terrorist Financial Investigation Unit (NTFIU) of the Metropolitan Police.

The course is offered to officers who have already been trained, and have experience, as financial investigators.

The course covers UK counter terrorist legislation, typologies, trends, and gives an awareness of the other agencies and bodies that can have a role to play in countering terrorist finance. The course's aims and objectives are to enable students to effectively undertake enquiries into terrorist financing and fundraising and be able, at the end of the course, to identify legislation relevant to the investigation of terrorist financing. Trained officers will have an awareness of the practical aspects of the investigation of terrorist financing and will be able to use the legislation correctly, and specify and utilise correctly the structures/organisations in the UK which target terrorist financing.

- techniques for tracing property which represents the proceeds of crime or is being used to finance terrorism with a view to ensuring that such property is seized, frozen and confiscated?

Techniques for tracing property are taught to all UK financial investigators as part of their basic financial investigators course. This course is now run by the Assets Recovery Agency.

* Annexes are on file with the Secretariat and are available for consultation.

What mechanisms/programs does the United Kingdom have in place to train the different economic sectors as to how to detect suspicious and unusual transactions related to terrorist activities and to prevent the movement of illicit money?

As part of the UK's response to the attacks of 11 September 2001, a multi-agency working group, the Financial Services Contact Group (FSCG) was established. The FSCG promotes an effective two-way dialogue between the financial services sector and law enforcement/intelligence agencies in order to deny terrorist organisations access to financial systems and products.

Over the past two years the FSCG has established liaison points within many sectors of the financial industry, including the Insurance, Investment Banking, and Personal Finance sectors. The FSCG has also been working particularly closely with the retail banking sector in profiling and assisting the industry to detect and report potentially terrorist-related suspicious financial activity.

In order to increase the effectiveness of the Suspicious Activity Reporting (SAR) regime in combating the use of UK financial systems by terrorist organisations, the FSCG is extending its outreach programme to additional vulnerable sectors of the financial industry (including Money Services Businesses and Credit Card Providers) in order to ensure that the industry is provided with relevant and timely indicators of terrorist finance activity.

1.2 Could the United Kingdom please elaborate on the functions of the agencies, which are responsible for the implementation of sub-paragraphs 1 (a), (c) and (d) of the Resolution and the legislative provisions for whose enforcement they are responsible? Could the UK provide similar information in relation to its Overseas Territories and Crown Dependencies? How does the United Kingdom ensure that there is adequate co-operation and sharing of information among the different government agencies which may be involved in investigating the financing of terrorism (e.g. police, customs, Financial Intelligence Unit (FIU) and/or other competent authorities)? Has the United Kingdom established any appropriate mechanism (such as a "task force") to this end?

In the UK, the bodies at the day to day forefront against terrorist financing are the Security Service, the National Terrorist Financial Investigation Unit (NTFIU) and the Terrorist Finance Unit of the National Criminal Intelligence Service (NCIS). The importance of multi-agency co-ordination in this field cannot be underestimated. The Security Service is the lead agency for combating international terrorism in the UK and Irish-related terrorism outside of Northern Ireland. It plays a key role in informing Government policy on terrorist finance and in intelligence-led investigations. The Service works closely with NTFIU,

NCIS, HM Customs and Excise and the UK police forces as well as overseas partners.

NTFIU is the law enforcement agency responsible for investigation of terrorist finance in Great Britain. It supplies experienced terrorist finance investigators to the terrorist Finance Team at NCIS. The Unit has two key objectives:

- To examine financial disclosures submitted to NCIS for possible terrorist connections and to combine this data with intelligence from other sources. The combined financial intelligence packages produced are referred for further investigative work by the NTFIU and intelligence agencies.

- To work with law enforcement and intelligence agencies to develop intelligence led methodologies to help inform future work on terrorist financing and where appropriate share with and provide guidance to the financial sector.

At the centre of the UK Government, leading roles in developing policies to combat the financing of terrorism are taken by HM Treasury, the Home Office and the Foreign and Commonwealth Office. The Treasury implements United Nations financial sanctions regimes using their powers under the relevant Order in Council. Sanctions are enforced by the Sanctions Unit at the Bank of England. Individuals and organisations who have been listed or who are suspected of facilitating terrorist acts are listed on the sanctions page of the Bank of England website (www.bankofengland.co.uk).

In the last two years new organisational networks and structures have been put in place across all areas of Government involved in this issue providing more focus for multi-agency initiatives to be brought to bear. All departments and agencies involved in the fight against terrorism are committed to effective multilateral working to enable effective monitoring of progress and regular review of areas requiring further development.

The UK financial services industry also provides a vital contribution to the fight against terrorist activity. Financial institutions have directed significant resources in response to national and international enquiries and law enforcement officers have worked closely and constructively with a wide range of compliance departments.

1.3 Could the United Kingdom please inform the CTC whether the relevant provisions of the Terrorism Act 2000 and the Anti-Terrorism, Crime and Security Act 2001 have been implemented in the Overseas Territories, as indicated in its first report (at page 4)? Is the United Kingdom liable for the financial system of the Overseas Territories?

An Order in Council (S.I. 2002/1822) making provision for certain Overseas Territories, namely Anguilla, the Falkland Islands, Montserrat, St Helena and Dependencies, the Turks and Caicos Islands and the British Virgin Islands, corresponding to various provisions of the Terrorism Act 2000 and the Anti-Terrorism, Crime and Security Act 2001 came into force on 1 August 2002. The Cayman Islands, Bermuda and Gibraltar are putting in place their own legislation corresponding to the 2000 and 2001 Acts.

1.4 The CTC notes from the schedule 2 of Anti-Terrorism, Crime and Security Act 2001 that some activities are excluded from the obligation to report to the UK's competent authorities about suspicious transactions. In this regard the CTC would appreciate an outlining of the UK's legal provisions and administrative mechanism which prevent those activities, with particular regard to corporate services providers, from being used for the purpose of the financing of terrorism. In relation to money laundering and the financing of terrorism could the United Kingdom provide an outline of any special strategy which may have developed with a view to enabling its investigation agencies to effectively prevent resources from being transferred to terrorists? (To prevent for example under-invoicing of exports and the over-invoicing of imports, manipulation of transactions of real estate, high value assets and insurance).

Under this schedule, those businesses excluded from the regulated sector are required to report suspicious activity under Sec. 19 of the Terrorism Act 2000. The 'reasonable grounds test' does not apply as for the regulated sector.

The Proceeds of Crime Act 2002 and the Terrorism Act 2000 require any such examples of suspicious activity to be reported to NCIS. If deemed suitable, such reports would then be investigated by the appropriate Law Enforcement Agency.

1.5 Sub-paragraph 1 (a) of the resolution requires financial institutions and other intermediaries to identify their clients and to report suspicious financial transactions to the relevant authorities. In this regard would the United Kingdom please provide the CTC with the number of suspicious transactions reports (STRs) received by the UK's competent authorities since 2001, the number of STRs analysed and disseminated, as well as the number of STRs which have led to investigations, prosecutions or convictions. The CTC would appreciate receiving information as to whether

any cases involving failure to comply with reporting obligations have been detected and whether any sanctions have been imposed.

The STR's received by the NCIS Terrorist Finance Team are disclosed under either the Proceeds of Crime Act 2002 or the Terrorism Act 2000. In 2002 the NCIS Terrorist Finance Team had a total of 4,786 STRs referred to it which were judged to have potential links to terrorism. Of this total, 556 were referred to NTFIU for further investigation. In 2003 the number of STR's referred to the TFT fell to 2,792, of which 632 were passed onto NTFIU.

In 2002 and 2003 almost 1,200 STRs have been allocated to the NTFIU for investigation. All have been investigated to a greater or lesser extent. Between 20% and 30% of those allocated have either initiated a longer-term investigation, or added substantially to an existing investigation. Prosecutions and convictions have arisen from STRs, but data is not held that would enable figures to be produced. It is worth noting that the STR process contributes greatly to the acquisition and development of intelligence. Concentrating on prosecutions and convictions falls short of looking at the value of the system as a whole.

No cases involving failure to comply with reporting obligations have been detected in relation to terrorist activity.

1.6 With regard to the effective implementation of paragraph 1 (d) of the Resolution, the CTC would be grateful to know whether the United Kingdom has taken judicial action against a non-profit organisation, based on suspected involvement in terrorist financing? If yes, please outline the relevant procedures as well as the outcome of such actions. The CTC would also welcome examples of cases in which sanctions have been enforced against such organisations.

The Charity Commission is the charity regulator for England and Wales. The regulation regime encompasses some 180,000 charities, plus an unknown number of others, which, mainly because of their small incomes do not need to register. The Commission has extensive powers of regulation, including powers to require production of information, to freeze bank accounts, to suspend or remove trustees and to investigate and rectify wrongdoing in charities.

The Charity Commission is a quasi-judicial department in that it has a range of powers that it can exercise on behalf of the High Court. Although the Commission has used these powers against charities suspected of being involved in the financing of terrorism no cases have come before the Courts.

The Commission is not a prosecuting authority and does not investigate criminal activities. Nevertheless the financing of terrorism clearly cannot be charitable and would amount to misconduct or mismanagement, which would allow the Commission to act to protect a charity's assets. It is important to realise that the Commission's role is not punitive in nature. Where misconduct or mismanagement are found, and there is a need to protect the future assets of a charity, the Commission will use temporary powers to, for example, freeze assets, and then remedial powers to, for example, appoint new trustees or to pass the assets to another similar charity. If criminal offences are suspected then information will be passed to the police.

The assets of a handful of charities have been frozen whilst inquiries take place. In the case of one charity that was suspected of funding terrorism in Iran, the assets were effectively confiscated and passed to another charity with similar objects. Although the matter was passed to the police, along with allegation of various offences under the Charities Act 1993, the police declined to take any action.

In another case, where a charity is suspected of funding terrorism in Sri Lanka, the charity has had its assets frozen for the last two years and a Receiver and Manager appointed to run the charity and its activities. The Commission is currently considering the appointment of a new body of trustees.

Charities in Scotland are regulated by the Office of the Scottish Charities Regulator and in Northern Ireland by the Department for Social Development.

1.7 In regard to the implementation of sub-paragraphs 1 (a) and (c) of the Resolution, as well as Article 8 of the International Convention for the Suppression of the Financing of Terrorism, the CTC would be grateful if the United Kingdom could outline the principal procedures embodied in its laws in relation to the confiscation of assets or the operation of some other deprivation mechanism. Please describe how these procedures operate in practice, indicating, inter alia, the authorities responsible for their implementation. Can the UK confiscate the proceeds of a crime without first obtaining the conviction of the perpetrator (i.e. in rem confiscation)? If not, is the introduction of such a system envisaged? The CTC would also welcome an account of any appellate provisions allowing for the review of decisions taken by any such authority or agency. Please indicate the financial magnitude of the assets frozen, seized or confiscated in regard to the prevention of financing of terrorism.

The legal provisions for asset freezing are determined at UN level first and then implemented at EU and domestic level. The relevant legal provisions at (i) UN, (ii) EU and (iii) domestic level for (a) freezing assets of organisations/individuals linked to terrorism in general (b) freezing assets of organisations/individuals linked to Al'Qaida and the Taliban are:

Freezing assets of organisations/individuals linked to terrorism in general

- *European Council Regulation 2580/01* - implements UNSCR 1373 at EU level.

Under these powers the assets of external terrorists (i.e. where the focus of operation is external to the Community) can be frozen throughout the EU.

- *Terrorism Order 2001* – implements UNSCR 1373 domestically.

Article 4(1) of the Terrorism Order states that where the Treasury have reasonable grounds to suspect that the person by, for or on behalf of whom any funds are held is or may be

(a) a person who commits, attempts to commit, facilitates or participates in the commission of acts of terrorism,

(b) a person controlled or owned directly or indirectly by a person in (a),

(c) a person acting on behalf, or at the direction, of a person in (a) or

(d) a person on the list (of natural and legal persons, groups and entities) in Article 1 of the Council Decision 2003/646/EC which implements Article 2(3) of EC Regulation 2580/01).

The Treasury may by notice direct that those funds are not made available to any person, except under the authority of a license granted by the Treasury under this article. Article 3 of the Terrorism Order makes it an offence to make any funds available to a person/entity whose assets have been frozen under article 4(1) except under the authority of a licence granted by the Treasury.

- *Anti-Terrorism Crime and Security Act 2001*

Part 2 of this Act creates a new power which enables the Treasury to freeze the assets of overseas governments or residents who have taken, or are likely to take, action to the detriment of the UK's economy or action constituting a threat to the life or property of a national or resident of the UK.

For freezing assets of organisations/individuals linked to Usama bin Laden, Al-Qaida and the Taliban

- *Al-Qaida and Taliban Order 2002 – implements UNSCR 1267, 1390, 1455, 1526 domestically.*

When acting under the Al-Qaida and Taliban Order, the Treasury has to have reasonable grounds to suspect that the person by, for or on behalf of whom funds are held is or may be

(a) Usama bin Laden,

(b) A person designated by the Sanctions Committee in its Consolidated list as:

(i) a member of Al'Qaida
(ii) a member of the Taliban; or
(iii) an individual, group, undertaking or entity associated with any of the persons covered by (a), (b)(i) or (b)(ii),

a person acting on behalf of a person in (a) or (b).

Amounts frozen

There is currently £336,477.05 held frozen in 37 accounts in the UK financial institutions pursuant to EC Regulations No 2580/2001 and No 881/2002. Both before and after September 11, 2001 the UK froze a total of around £70 ($100) million of terrorist assets. Following the liberation of Kabul, the bulk has been unfrozen and made available to the legitimate Government of Afghanistan.

N.B. The total funds frozen figure includes £16,963.57 (GBP + USD) where banks have frozen funds of possible not positive matches. In addition, some debit balances have been reported (i.e. credit cards balances or overdrafts). These debit balances total £3,447.55. The total funds frozen figure reflects credit balances only.

Appellate provisions

The UN Al-Qa'ida & Taliban Sanctions Committee may, at a member state's request, remove individuals and entities from its Consolidated List. If a UK national or resident wishes to be removed from the Consolidated List, he may apply to the Committee through the UK Government.

The UK keeps decisions on asset freeze cases under review. In the event of appropriate evidence coming forward that demonstrated that an individual or organisation had been wrongly identified as being involved in terrorism the UK would be prepared to take necessary action to seek the removal of any such individual or organisations from designation lists. UK law also allows for judicial review of administrative decisions. It is therefore open to both individuals and organisations to challenge decisions on asset freezing taken by the UK Government if they regard the action as unjustified. Since the introduction of UK legislation implementing UNSCR 1373 there have been no such challenges.

Confiscation

The UK can confiscate the proceeds of crime without first obtaining a conviction from the perpetrator. The Proceeds of Crime Act does state that a criminal conviction should be obtained first if possible, but if it is not possible then the proceeds of crime can be recovered by other means. First, through civil recovery (this is only applicable if criminal conviction is not possible). The Director of the Assets Recovery Agency (established in February 2003 under the Proceeds of Crime Act) can sue in the High Court to recover property (which includes cash) derived from unlawful conduct. It should be made clear that the proceedings are against the property and not the person. If the civil recovery route is not possible there is an additional route that can be taken to recover criminal proceeds without conviction, this is through taxation. The Assets Recovery Agency can take on the role of the Inland Revenue but do not have to source money for tax assessment.

The Home Office has issued a guide for the ARA on the procedure they should follow with regards to both the civil recovery procedure and the taxation procedure.

1.8 In regard to compliance with sub-paragraph 1 (c), could the United Kingdom provide the CTC with statistics on the number of cases in which financial assets or economic resources have been frozen, seized or confiscated in relation to the financing of terrorism. Could the United Kingdom also provide the CTC with information concerning the number of individuals and/or entities whose properties have been frozen because they featured in a list drawn-up by:

- **the Security Council;**

- **the United Kingdom;**

- **other states or organisations.**

In total the UK has, since before 11 September 2001, frozen the assets of over 100 organisations and over 250 individuals under lists drawn up by the Security Council. In 2003 the Bank of England issued 26 Notices/news releases concerning Terrorist/Al Qa'ida assets freezes, covering 72 individuals and 12 entities.

The CTC would also appreciate it if the United Kingdom could also provide it with the corresponding statistics concerning its Overseas Territories and Crown Dependencies.

Such statistics are not available.

Effectiveness of counter-terrorism machinery

1.9 Effective implementation of 1373-related legislation, covering all aspects of the resolution, requires states to have in place effective and co-ordinated executive machinery. It also requires states to create and utilise appropriate national and internationai counter terrorism strategy. In this regard, the CTC would appreciate hearing how the UK's counter- terrorist strategy and or policy targeting (at the national/or sub national levels) deals with the following aspects or forms of counter terrorist activity;

- **Physical protection of potential terrorists targets**

Protection of VIPs and High Risk Buildings

The United Kingdom has a leading role in the physical protection of potential terrorist targets, primarily ensuring the protection of the Royal Family and VIPs. This protection is provided in a number of ways, ranging from tailored technical protective security packages (such as alarm systems and CCTV installed at protected individuals' residences and Royal sites), through to the provision of personal protection (accompanying the protected individual at all times) and static protection (guarding the protected person's residence).

Along with these protection measures, The United Kingdom has been engaged in a programme of counter-terrorist hardening at a number of sites, further enhancing the physical protection of potential terrorist targets.

Although there is no specific UK legislation relating to these protective security measures, all work is conducted under the auspices of a high-level committee, charged with exercising executive authority for the national policy on protective security matters within the UK.

The UK has well-developed aviation and maritime security programmes, focused upon preventing acts of violence being perpetrated against UK airports, aircraft, ports and shipping, and those employed in these industries or using their services as travellers or in moving goods. These security regimes include measures designed to prevent unlawful control being taken of UK aircraft or ships with a view to them being used as weapons directed against buildings or other infrastructure.

Critical Infrastructure Protection

Special physical and electronic protective security measures are also in place for the UK's Critical National Infrastructure (CNI). The CNI is composed of ten key sectors:

- communications
- emergency services
- energy
- finance
- food and drink
- government and public services
- hazards and public safety
- health
- transportation
- water and sewerage

- ***Counter-terrorist intelligence (human and technical)***

It is longstanding United Kingdom Government policy not to comment on specific issues relating to the security and intelligence services. In the United Kingdom the Security Service are responsible for the protection of national security and in particular the protection against threats from terrorism. These functions extend throughout the United Kingdom, apart from Northern Ireland, where the lead responsibility for investigating the threat from terrorism related to the affairs of Northern Ireland lies with the Police Service of Northern Ireland. In the aftermath of the terrorist attacks of 11 September 2001, the Security and Intelligence Agencies continue to provide a significant contribution to tackling the threat posed by terrorist organisations.

- ***Criminal investigations and prosecution***

Within the UK, a Deputy Assistant Commissioner, based within the Metropolitan Police, has been appointed as the National Co-ordinator for Terrorist Investigations. The role of this post has been agreed at Chief Constables Council and provides that the National Co-ordinator may, by invitation of the relevant Chief Constable, assume responsibility for the co-ordination and direction of enquiries into terrorist and other related activity.

The remit of the National Co-ordinator includes the overall command of the investigation with the authority to direct all aspects of police activity in each and all of the police areas that may be affected. He/she will also be responsible for the management of intelligence and evidential matters to bring matters to the point of trial, and decisions in respect of extradition proceedings.

Policing operations are intelligence led and the role of the National Co-ordinator provides a formal mechanism for the formation of an Executive Liaison Group (ELG). This group enables the joint consideration of any question relating to the exploitation of intelligence leading to executive action.

Special forces operations

The UK does not comment on the activities of its Special Forces.

- **Information concerning counter terrorist operations (including: the storage and exchange of data, propaganda and counter-propaganda.**

The UK does not comment on its counter terrorist operations.

- **Strategic analysis and forecasting**

The Joint Terrorism Analysis Centre (JTAC) produces intelligence assessments on the threat from international terrorism for a wide range of government departments and agencies, at a wide range of levels, from the tactical to the strategic. JTAC assessments contribute to assessments made by the Joint Intelligence Committee (JIC). The JIC is responsible for strategic assessment of the international terrorist threat and issues relating to international terrorism.

- **Border and immigration controls, as well as the prevention of trafficking in drugs, arms, biological and chemical weapons, their precursors and the illicit use of radioactive materials.**

Ports Policing

Ports policing is recognised as a first line of defence against terrorism and international organised crime. The three main control authorities, or Border Agencies, working at seaports and airports are Police Special Branches, HM Customs & Excise (HMCE) and the Immigration Service. These three Agencies operate joint intelligence cells, liase regularly and co-ordinate the collection of passenger information.

The role of the Police at ports

Police Special Branches make a significant contribution to countering the terrorist threat and maintaining national security by posting staff to Special Branch units at airports, seaports and international rail termini. The primary function of officers at ports is to gather intelligence, by "examining" travelling passengers, to identify persons who are or have been engaged in the commission, preparation or instigation of acts of terrorism. This function extends also to gathering intelligence on other Special Branch priorities. The principle tool at the officers' disposal is Schedule 7 of the Terrorism Act 2000.

Special Branch officers at ports also contribute to the generic police effort towards the reduction of serious and organised crime by monitoring passengers in order to provide intelligence about criminal activity. Where appropriate the

officers use their other powers to arrest wanted criminals travelling through ports and to support other policing objectives. They also play an active role in the disruption and prevention of specific offences relating to the abduction of children through ports and protection of children or breaches of civil court orders.

Screening for radioactive materials

Screening for radioactive materials forms a key element of the UK Government's Counter-Terrorism strategy and is one of a wide range of measures and activities to reduce the country's vulnerability to terrorist attack. The UK will introduce routine screening of all traffic entering the country for the illicit importation of radioactive materials.

In undertaking such a huge programme the Government is determined that the security measures at UK borders are world class and take into account the latest technological innovations and research.

The role of HM Customs and Excise at ports

HM Customs & Excise work in close co-operation with the UK law enforcement agencies at all ports and airports to ensure that effective mechanisms are in place to counter the threat from terrorist activity. Measures taken include risk profiling, national threat assessments and the regular exchange of intelligence.

Steps have been taken to ensure that biological and chemical weapons are prevented from being smuggled into the country. Customs works closely with the UK security services to ensure that controls are targeted and intelligence driven to meet identified threats. This approach also covers other prohibited goods such as drugs and arms.

Other initiatives include the seizure of assets where there are reasonable grounds to suspect that they are connected to terrorist activity. All of the border agencies share intelligence and information on a regular basis. This is facilitated by formal Memoranda of Understanding that clearly set out the terms under which all parties work towards a common purpose in the fight against terrorism.

Customs work is governed by the Customs and Excise Management Act 1979 that provides extensive powers to Customs officers to carry out their duties. Customs organises its day-to-day work and frontier computer processing systems on the basis of risk assessment supported by intelligence. Customs carries out criminal investigations and prosecutes breaches of import and export controls.

The role of the Immigration Service at ports

The Immigration Service has, among other things, national responsibility for the integrity of the UK's border controls at air and seaports. It has primary responsibility for processing applications for entry by persons arriving in the UK in accordance with the various Immigration Acts and the Immigration Rules.

One of the tools available to the Immigration Service is a computerised index, which comprises of a list of names, lost/stolen documents and organisations. This index is used at approximately 250 locations around the world, 80 or so in the UK (including all points of entry), and approximately 170 locations abroad (mostly UK visa issuing posts). The system has been in use in the UK since 1995, and by visa issuing posts since 1998. There are approximately 750,000 person names, one million documents and 500 colleges of interest on the Index, but we have the capacity to increase these numbers.

The Immigration Service also supports, strategically and tactically, a range of border security measures and initiatives through joint working with the Police, HMCE and other Government departments with responsibility for border security.

The UK Passport Service (UKPS)

The UKPS has development plans in place with the FCO (who issue passports to British Citizens abroad) so that its posts abroad can access the UKPS Lost, Stolen and Returned Database. Development plans are in place to allow access by all posts when secure links are in place.

The UKPS is also in discussion with Interpol, the Schengen Information System, the USA, Canadian, Australian, and New Zealand Passport Services and other interested parties on allowing them secure access to the UKPS Lost, Stolen and Returned Database.

The major FCO Posts abroad can already access the UKPS database of issued passports. This will be rolled out to all Posts abroad when secure links are in place. With regard to the issuing of passports, the UKPS follow ICAO standards and EU Guidelines. The minimum standards that UKPS use before issuing a passport are that the applicant provides not only proof of identity, but also proof of nationality.

1.10 The CTC would be grateful if the United Kingdom could provide it with information regarding its counter terrorist work, including an outline of any targeted programs and the agencies involved. Could the United Kingdom also describe any mechanisms, which it may utilise in order to secure effective coordination between the various agencies charged with the implementation of the provisions contained in paragraph 2 and 3 of the

resolution? The CTC is particularly interested in receiving information concerning the following areas:

Where necessary, coordination is achieved interdepartmentally or through the Cabinet Office.

- **Recruitment to terrorist groups**

The UK is developing its work in this area, but it is still too early to provide the CTC with any firm conclusions.

- ***Links between terrorism and criminal activities (in particular, with drug trafficking)***

The main links concern small-scale crime including credit card fraud and cigarette smuggling.

- **The provision, by any means, of access to CBN materials to terrorists or terrorist group**

The United Kingdom devotes considerable resources to monitoring and responding to the potential CBRN terrorist threat. They include the security and intelligence agencies, the police, considerable military expertise, scientific and other specialist advisers (including government scientific resources). The ability of police forces to respond to a terrorist attack involving the use of CBRN materials has been strengthened through the provision of specialist training at a national CBRN Police Training Centre.

1.11 In the context of sub-paragraph 2 (f) of the Resolution what authority is responsible for providing assistance in money laundering and financing of terrorism investigations in the Overseas Territories? How long does it take to provide such assistance? Are the Overseas Territories empowered to provide such assistance without authorisation or any other requirements of the UK? Do they need the authorisation of the central government? Does the central government need a treaty with the Overseas Territories in order to have assistance granted? Do the Overseas Territories provide assistance to other States only on the basis of international agreements? What happens if no treaty is in place?

Domestic financial issues are the responsibility of the territories' Governments and HM Government in the United Kingdom has no direct responsibility for these matters. Assistance granted to the UK Government by an Overseas Territory would not require a treaty, as treaties do not exist between the UK and its Territories.

A number of mechanisms are in place within the Overseas Territories for providing assistance in money laundering and financing of terrorism investigations in the Overseas Territories, for example regulator to regulator exchanges and Mutual Legal Assistance Treaties (MLATs) with other States. Formal agreements such as MLATs have clear compliance time limits written in to the agreement. The Overseas Territories can (and do) co-operate in investigations without reference to the UK. The Overseas Territories have also shown themselves willing to co-operate with investigators in other States with whom no formal agreement is in place to the extent that local legislation permits this. Should further information be required on particular Territories, we would be happy to provide it.

1.12 With regard to the effective prevention of the establishment of the terrorist safe havens and the provision of other forms of active or passive support for terrorists or terrorist groups the CTC would appreciate an outlining of the UK's legal procedures and administrative mechanisms to prevent different forms of such support, with particular regard to:

- **The provision of logistical support for terrorists (including the use of computer technology)**
- **"apologia" for terrorists**
- **incitement to terrorism**
- **maintenance of contacts with and between terrorist organisations, terrorist groups and individual terrorists.**

It is an offence to incite, support or recruit the commission of terrorist acts under the Terrorism Act 2000. The following offences are contained within the Act:

Support for a Proscribed Organisation: It is an offence to invite support for a proscribed organisation. Support is not restricted to the provision of money or other property. It is an offence to arrange, manage or assist in arranging or managing a meeting (of three or more persons, in public or private) which is known to support or further the activities of a proscribed organisation. It is also an offence if it is known a person belonging to or professing to belong to a proscribed organisation will address the meeting. It is an offence to address a meeting when the purpose of the meeting is to encourage support for a proscribed organisation or to further its activities.

A person guilty of an offence under this section of the Act shall be liable, on convition on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both.

Directing a Terrorist Organisation: It is an offence to direct, at any level, the activities of an organisation involved in terrorist crime.

A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.

Possession for Terrorist Purposes: It is an offence to possess an article in circumstances that give rise to a reasonable suspicion that the article in possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.

A person guilty of an offence under this section of the Act shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both.

Inciting Terrorism Overseas: It is an offence to incite acts of terrorism, wholly or partly outside the UK, where the act - if committed in the UK - would constitute a number of offences as listed in the Act, such as murder and wounding with intent.

A person found guilty under this section of the Act shall be liable to any penalty, on conviction of the offences listed in the Act, which correspond to the act which he incites.

It is an offence to provide training, financial or material support for the purposes of terrorism under the Terrorism Act 2000.

UK counter-terrorist legislation defines terrorist property as money or other property which is likely to be used for the purposes of terrorism; proceeds of the commission of acts of terrorism; and proceeds of acts carried out for the purposes of terrorism. The proceeds of an act of terrorism include any money paid in connection with the commission of terrorist acts. It also covers property obtained by or in return for acts of terrorism or by or in return for acts carried out for the purposes of terrorism. It also makes explicit that any resources of a proscribed organisation are included; i.e. money set-aside for non-violent purposes such as rent for accommodation and bills. The following offences are contained within the Act:

Fund-raising: It is an offence to invite another to provide money or other property intending or having reasonable cause to suspect that said money or property should or may be used for the purposes of terrorism. It also makes it an offence to receive or provide money or other property in those circumstances.

Use and Possession: It is an offence to possess money or other property intending or having reasonable cause to suspect that said money or property should or may be used for the purposes of terrorism.

Funding Arrangements: It is an offence to enter into, or become concerned in, an arrangement that will or may result in money or other property, which is known or

suspected, being made available to another (or is to be made available to another) for the purposes of terrorism.

Money Laundering: It is an offence to enter into or become concerned in an arrangement which facilities the retention of or control by another of terrorist property. For example, by concealing the property, removing it from the jurisdiction, or transferring it to nominees.

A person guilty of an offence under any of these sections within the Act shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both.

Training: Where it is for the purposes of terrorism, it is an offence to provide instruction or training in the use of firearms, explosives or chemical, biological or nuclear weapons; to receive instruction or training in the making or use of the above; and to invite another to receive such instruction or training.

A person guilty of an offence under this section of the Act shall be liable, on conviction on indictment, to imprisonment for a term not exceeding 10 years, to a fine or to both.

The CTC would also find it helpful to receive information on recent successful operations in the areas above. In supplying such examples, States are not expected to supply information in respect of ongoing investigations or judicial processes if to do so would prejudice the proper conduct of an investigation or judicial process.

Due to the complex nature of terrorist investigations and the length of time required to progress these matters through the courts, it is not possible to provide details of particularly recent individual cases as they are subjudice.

One of the more recent enquiries, which required the co-ordination of police activity over a wide geographical area, and a protracted time period, was the investigation into a dissident Irish Republican terrorist cell responsible for bombings in Central London and Birmingham during 2001. Five men were convicted in April 2003 and given lengthy prison sentences.

Co-ordination was a key point in the investigation, led by the Metropolitan Police Anti-Terrorist Branch but with the National Coordinator directing the activities of West Midlands and West Yorkshire Police Services. This was a huge and meticulous investigation with over 40,000 documents placed in evidence. During the enquiry over 8000 closed circuit videotapes were seized and examined. Through painstaking scene management a wealth of forensic material was recovered which was to prove vital in building a strong prosecution case.

1.13 As regards the effective implementation of the requirements of the resolution, could the United Kingdom also outline the legislative provisions, administrative mechanisms, as well as the practical tools and procedures which are employed to combat terrorism in the United Kingdom's Overseas Territories and Crown Dependencies? In particular, could the United Kingdom indicate which bodies are charged with maintaining the appropriate level of interaction and coordination in relation to counter terrorist activities in its Overseas Territories and Crown Dependencies? In its response, the United Kingdom may wish to refer to law enforcement agencies, intelligence-gathering agencies and other competent bodies.

It has not been possible to gather comprehensive information before the specified deadline. The UK will provide further information on the situation in the Overseas Territories and Crown Dependencies as soon as possible.

1.14 Sub-paragraph 2 (e) of the Resolution requires each Member State, inter alia, to have in place effective police, intelligence and/or other structures as well as adequate legal provisions to detect, monitor and apprehend persons involved in terrorist activities and/or supporting terrorist activities, with a view to ensuring that those persons are brought to justice. In that regard could the UK please provide the CTC with information relating to the number of persons prosecuted for;

- **Terrorist activities**
- **The financing of terrorism**
- **Recruiting to terrorist organisations**
- **Providing support to terrorists or terrorist organisations**

Records of the numbers of persons arrested under the Terrorism Act 2000 since 11th September 2001 are kept within the Metropolitan Police Service. Work is currently ongoing to build a database to provide details of specific charges arising from the arrests and the subsequent disposal of each case, but it is not yet possible to provide the breakdown requested. As of 20th January 2004, there have been a total of 534 arrests. Of those, 93 people have been charged with offences under the Terrorism Act and a further 76 have been charged with other criminal matters.

The nature of the charges laid to date have included: membership of a proscribed organisation; possession of an explosive substance with intent to endanger life; receiving, possessing or arranging for money or other property to be made available for the purpose of terrorism; and possession of an article in circumstances giving reasonable suspicion that the purpose was for the commission, preparation or instigation of terrorism.

In addition could the United Kingdom let the CTC know how many persons have been prosecuted for inviting support (including furthering recruitment) to

- **Proscribed organisations**
- **Other terrorist groups or organisations**

There have been three convictions in regard of proscription offences. Other groups are not covered by the membership offences.

In this regard could the UK provide data on the number of terrorist organisations which it has proscribed? On average, how long does it take to proscribe a terrorist organisation at the request of another state?

The UK has proscribed 39 organizations - 25 international and 14 relating to Northern Irish terrorism. No data can be provided on how long it takes to proscribe at the behest of another state - it varies dramatically depending on the organisation or state. The state makes a request, which is considered by the Security Service and the Home Secretary before being put before Parliament for consideration.

1.15 With a view to effective implementation of sub-paragraph 2 (e) could the UK indicate whether its laws permit, for investigative and evidentiary purposes, to resort to special investigative techniques in the fight against terrorism? Examples of the special investigative techniques referred to could include undercover operations; the use of informants; the use of other forms of encouragement to persuade persons to supply counter-terrorist information to the competent authorities; the monitoring and or the interception of communications (internet, radio, audio visual media and other advanced communications techniques)? Are there any impediments to utilizing the intelligence data in criminal investigations? Could the UK please elaborate on the legal provisions and administrative procedures which it has put in place in relation to the protection, assistance and support available to victims, witnesses and other persons providing information concerning terrorist activities in the course of investigation and judicial proceedings. Could the UK please indicate whether such provisions can be utilized in cooperation with another state.

The Police and Security Service both use special investigative techniques. The extent to which counter-terrorist competent authorities can carry out any of these special investigative techniques is defined by specific legislation, which includes the Regulation of Investigatory Powers Act (RIPA) 2000, the Data Protection Act 2000, the Human Rights Act 1998, the Security Service Act 1989 and the Intelligence Services Act 1994.

The Regulation of Investigatory Powers Act (RIPA) 2000 provides a European Convention on Human Rights compliant framework for the interception of communications, the use of both covert surveillance and covert human intelligence sources (agents, informants and undercover officers), and, very shortly, access to communications data.

- Interception of Communications: Under Part I, Chapter I of RIPA, interception of communications is conducted by means of a warrant authorised by the Secretary of State on application by law enforcement, security or intelligence agencies. The purposes for which a warrant may be issued are in the interests of national security, to prevent or detect serious crime, for the purpose of safeguarding the economic well-being of the United Kingdom, or for the purpose of giving effect to the provisions of any international mutual assistance agreement. As regards the last of these, interception warrants in response to, or for the making of, requests for international mutual assistance in interception matters, can only be issued in circumstances equivalent to the prevention or detection of serious crime. Part I Chapter I of RIPA defines the interception of communications as any communication in the course of its transmission by means of either a public postal service or a public telecommunications system. The product of an intercepted communication cannot be used in evidence.

- Access to Communications Data: The UK definition of communications data includes itemised telephone call records and subscriber details, what is commonly referred to as "traffic data", routing and location data. It does not include the content of the communication. Currently, communications data may be supplied voluntarily for specified reasons (e.g. investigation of crime) under the Data Protection Act 1998. It may additionally be supplied in obedience to a Production Order authorised by a Crown Court judge.

- In the near future, Part I, Chapter II of RIPA will introduce a statutory based framework to regulate access to communications data by investigating bodies. It explains the duties and responsibilities placed upon each party involved in the process and creates a system of safeguards, reflecting the requirements of Article 8 of the European Convention on Human Rights. A strict test of "necessity" must be met before any communications data is obtained under RIPA. An authorising officer must not only consider the communications data to be necessary, but must also consider the conduct involved in obtaining the communications data to be "proportionate" to what it seeks to achieve. The grounds on which it is necessary include: in the interests of national security; for the purpose of preventing or detecting crime, or of preventing disorder.

  Covert Surveillance: Part II of RIPA provides two categories of covert surveillance:

- Intrusive surveillance is defined as covert surveillance inside residential premises or private vehicles that is carried out by means of a surveillance device or involves a person on the premises or in the vehicle.

- Directed surveillance is defined as covert surveillance that is not intrusive, but which is undertaken for a specific investigation or operation that is likely to obtain private information about a person.

- Use of Covert Human Intelligence Sources (CHIS) – Agents, Informants and Undercover Officers: Part II of RIPA defines an Agent, Informant and Undercover Officer as a Covert Human Intelligence Source (CHIS) which is defined as a person who establishes or maintains a personal or other relationship with a person to covertly obtain and disclose information. A person who carries out "fictitious purchases" would fall within the definition of a CHIS.

Intrusive surveillance may only be carried out by the police service and HM Custom and Excise if an independent Surveillance Commissioner approves an authorisation. The authorisation must be necessary on the grounds that it is to prevent or detect serious crime. Intrusive surveillance by the security and intelligence services may only be carried out by means of a warrant authorised by the Secretary of State in the interests of national security, to prevent or detect serious crime or in the interests of the economic well-being of the United Kingdom.

All Intrusive Surveillance authorisations must also be proportionate to what is sought to be achieved by carrying out the activity and the information obtained could not be reasonably obtained by other less intrusive means. The carrying out of Directed Surveillance and the use of a Covert Human Intelligence Source is authorised internally at a senior level within the police service, HM Customs and Excise and security and intelligence services. An authorisation can be granted if it is necessary and proportionate for one of the following purposes; in the interests of national security; for the purpose of preventing or detecting crime or preventing disorder; in the interests of the economic well-being of the United Kingdom; in the interests of public safety; or for the purpose of protecting public health.

The Regulation of Investigatory Powers Act 2000 does not cover the "bugging of premises" or other such interference with property or wireless telegraphy. Part III of the Police Act 1997 provides the lawful basis for the police service and HM Customs and Excise to enter on or interfere with property or with wireless telegraphy. Section 5 of the Intelligence Services Act 1994 provides the lawful basis for the security and intelligence agencies to enter on or interfere with property or with wireless telegraphy.

1.16 The CTC would appreciate learning whether all 12 international Conventions and protocols relating to terrorism, referred to in resolution 1373, have been ratified by the UK in respect of all its Overseas territories and Crown Dependencies.

A matrix is attached showing which Overseas Territories and Crown Dependencies have ratified the 12 UN Terrorism Conventions.

1.17 As regards the implementation of sub-paragraph 1 (a) and (c), as well as Article 5 of the International Convention for the Suppression of the financing of terrorism, please indicate whether the UK has taken measures to establish the civil, criminal or administrative liability of legal persons in relation to criminal offences, in particular, in relation to offences linked to terrorist activities?

Please provide an outline of the relevant legal instruments. Is it possible to assign liability to a legal person, including circumstances where no natural person has been convicted or identified?

Legal persons are subject to the provisions of the Terrorism Act.

There is a duty under s19 (1) of the Terrorism Act for a person to disclose information if he believes or suspects a person of involvement in terrorist property offences. In addition, a person working in the regulated sector (business accepting deposits) is guilty of an offence if he knows or suspects a person - or has reasonable grounds for knowing or suspecting a person - has committed a terrorist property offence and the information came to him in the course of a business in the regulated sector and he did not disclose it to a constable or a nominated person in his company as soon as practicable or the information is subject to legal privilege.

Could the UK supply the CTC with statistics on the number of cases where sanctions were imposed on financial institutions for providing support to terrorists or terrorist organisations?

This information is not available.

Effectiveness of Customs, Immigration and Border Control

1.18 Effective implementation of sub-paragraphs 2 (c) and (g) of the Resolution involves maintaining effective customs, immigration and border controls to prevent the movement of terrorists and establishment of safe havens. In that connection, with regard to preventing the falsification, counterfeiting or illegal use of identification and travel documents, have the authorities in the UK taken any action in relation to:

- **establishing standards for the collection and dissemination of information and warnings about passengers:**

The e-Borders programme envisages an Authority to Carry (ATC) scheme. This scheme will allow UKIS to prevent specified categories of passenger from travelling to the UK and provide advance information for other border control, law enforcement and intelligence agencies by requiring carriers to request a check against Government databases before departure.

- **establishing minimum standards concerning the issuance of identification documents and travel documents; establishing minimum standards and recommendations concerning the use of biometry in the establishment of procedures and the production of documents**

The UK has a program in place to implement ICAO standard for biometrics in passports. In addition, the UK is supporting the EU proposals for the introduction of ICAO compliant biometrics in visas and residence permits. Biometric images will eventually support facial recognition proposals that will assist in detecting and reducing fraudulent passport applications.

- **establishment of minimum standards in relation to equipment used to verify the authenticity of documents at places of entry in or exit from a state.**

All immigration officers have access to appropriate forgery detection equipment both on the primary arrival control and in the back office. In addition, the computerised Warnings Index terminal at most ports incorporates a swipe reader for reading and checking ICAO standard machine-readable travel documents. All ports are provided with up to date intelligence bulletins and alerts to provide details and images of genuine documents for comparison and examples of fraud of documents. Centrally organised training is available to all port immigration officers in forgery detection to enable them to identify document fraud and utilize properly the forgery detection equipment provided.

Does the UK exchange information with other States concerning lost or stolen passports and the refusal of visas?

If the answer to the question is yes could the UK provide an outline of the relevant standards and recommendations, including a description of any mechanisms used to further their implementation. Does the UK exchange information with other States concerning lost and stolen passports and the refusal of visas? If so please provide details.

The National Document Fraud Unit (NDFU) is the UK national contact point for international exchanges of information between border control authorities on lost and stolen travel documents.

The UK does not routinely and regularly share visa refusal information with other countries. However, upon request, a UK visa office would usually provide summary information as to why someone had been refused a visa if that same applicant subsequently applied for a visa at another country's embassy in the same location.

In relation to sharing data with other states, the UK Passport Service is currently working with both the Schengen Information System (SIS) programme in order to make lost/stolen passport data available to appropriate authorities within Europe. Additionally, UKPS is working with Interpol to make the same available for loading onto their i 24/7 system, which is available across Europe and further afield. There has been no formal commitment here by UKPS, but it is working closely with other 'friendly' nations (principally the '5 Nations', i.e. accepting the UK, USA, Canada, Australia and New Zealand) and sharing of data has and is being discussed.

UKPS uses lost/stolen information that it gathers to prevent fraudulent passport issues. It is also making this information available to a number of parties, including but not limited to the FCO, UKIS, DVLA, the SIS programme and Interpol, via a direct, secure, system link to its passport database known as "OmniBase".

1.19 Please outline the legal and administrative procedures utilised by the UK to protect port facilities, ships, persons, cargo, cargo transport units and ships stores from the risks of a terrorist attack. Please outline the procedures adopted in the UK to control access to ships and to monitor restricted areas with a view to ensuring that only authorised persons have access to and supervise the handling of cargo and ship's stores. Does the UK periodically review and update transport security plans? If yes, please outline.

The UK has long-standing aviation and maritime security regimes under the Aviation and Maritime Security Act 1990 (AMSA). For the maritime sector, the AMSA security regime applies to passenger ships and the ports serving them and includes UK flagged cruise ships operating worldwide. The regime consists of mandatory protective security measures, which vary according to the prevailing level of threat and risk, as well as security guidance and best practice.

The UK is now making good progress on implementing the new international ship and port facility security regime, agreed by the IMO in December 2002, and expects to meet the deadline for implementation of 1 July 2004. Under an EU Regulation currently being agreed, the UK will also apply the IMO regime to domestic ships and port facilities by the deadlines to be agreed by the EU.

1.20 Has the UK given effect to the standards and recommendations of the International Civil Aviation Organisation (ICAO) and whether the ICAO has conducted safety audits of the UK's international airports?

The UK gives effect to the standards and recommended practices of the International Civil Aviation Organisation (ICAO) (Annex 17). As far as ICAO safety audits are concerned none have been conducted on the UK mainland and no security audits have been conducted in the UK.

Effectiveness of Controls Preventing Access to Weapons by Terrorists

1.21 Sub-paragraph 2 (a) of the Resolution requires each Member State, inter alia, to have in place appropriate mechanisms to deny terrorists access to weapons. In this regard, could the United Kingdom outline how it co-ordinates the law enforcement agencies a and other competent authorities charged with implementing controls on the export of goods; the transfer of technologies; the provision of technical assistance overseas and the trade in controlled goods. In that respect, the CTC is particularly interested in hearing about co-ordination between the agencies for denying terrorists access to weapons or hazardous materials. The CTC would appreciate receiving statistics from the United Kingdom on the implementation of the specific legal provisions relied on to prevent terrorists from gaining access to such weapons.

The Restricted Enforcement Unit (REU) has a central role in co-ordinating the work involved in countering potential breaches of export controls and procurement attempts in support of overseas weapons programmes – in particular those relating to Weapons of Mass Destruction (WMD). The REU is an interdepartmental committee of officials drawn from interested departments and meets regularly to discuss information received from a wide variety of sources including HM Customs and Excise – the enforcement authority in the UK for export controls. Decisions on export licence applications and ratings (an assessment of licensability), including - in particular - issues such as end use and the risk of third party transfers are underpinned by the work of the REU. All export licence applications and ratings are checked against terrorist lists.

Statistics under this sub-paragraph are not available.

1.22 With regard to the requirements of sub-paragraph 2 (a) of the Resolution as well as to the provisions of the Convention on the Marking of Plastic Explosives for the purpose of Detection and the International Convention for the Suppression of Terrorist Bombing please provide the CTC with information relevant to the following questions:

- **Please specify procedures of export control and existing mechanism of exchange of information of sources, routs and methods of traders in arms.**

Licences to export arms and other goods subject to control for strategic reasons (including explosives) are issued by the Secretary of State for Trade and Industry acting through the Export Control Organisation (ECO) of the Department of Trade and Industry. All relevant licence applications are circulated by the DTI to other Government Departments with an interest for advice as determined by these Departments in line with their own policy responsibilities. This includes, principally, the Foreign and Commonwealth Office (FCO), the Ministry of Defence (MoD) and the Department for International Development (DFID).

Goods that are subject to strategic export control must be covered by a license issued by the Department of Trade and Industry. When presenting the goods to Customs, the exporter must declare the type of license used. Specific licenses must be presented with the goods. Details of an open license must be given on the customs declaration and on commercial documents.

Customs use a number of techniques to identify sensitive goods not declared at export. Where the licensability of goods is obvious from the commodity code, Customs' automatic entry processing system will not accept the entry without a licence. In other cases profiles are set on the system based on the goods, the exporter, the destination and the end-user. A regular programme of 'awareness raising' visits to customs staff at UK ports and airports is carried out. Customs and other agencies also visit exporters to raise awareness about suspicious orders. The UK has fostered a culture of compliance with exporters who see adherence to the controls as essential in maintaining their business reputation.

Specialist investigators regularly meet all agencies concerned in export control at the Restricted Enforcement Unit, where they exchange information and intelligence about procurement activities, suspicious routing, smuggling trends etc.

- **Please outline any appropriate mechanism to verify the authenticity of licensing or authorisation documents for the import or export or transit movement of firearms.**

Where there is reason to suspect the authenticity of licenses Customs check the details with the Department of Trade and Industry. Customs receive copies of all open individual export licenses. The Foreign and Commonwealth Office carries out verification checks on end-user certificates via UK embassies in the countries concerned. The UK receives copies of firearms transfer documents from other states of the European Union. A network of Customs Firearms and Explosives Officers carries out verification checks at the premises of Registered Firearms Dealers.

- **Has the UK's Customs Service implemented intelligence–based risk management on borders to identify high-risk goods? Please outline data elements required by Customs Administration to identify high risk consignment prior to shipment.**

Border checks are based either on specific intelligence or on risk profiles as outlined above. For exports the main focus is on sensitive destinations and suspect end-users. Checks based purely on the types of goods are not always helpful – the majority of commodity codes are too wide to identify most controlled goods; most controlled goods are dual-use and present no risk when exported by responsible exporters to responsible end-users.

Import checks also are based on risk assessment and focus on high-risk goods such as weapons and ammunition. Commodity codes and country of origin are the main indicators used by Customs to base risk profiles.

- **Do legal provisions in place provide for share the information on import and export licences or authorisation, or accomplishing documents, of names and location of brokers involved in the transaction with foreign counterparts to enable co-operation in preventing illegal shipments of firearms, their parts and components and ammunition as well as explosives and their precursors.**

The UK has provisions in place to share information in the event of breaches of import and export controls on firearms, parts, and ammunition. This co-operation is mainly carried out between enforcement authorities and the procedures have been in place for a number of years. There is no routine sharing of licensing information that is confidential.

- **Has the UK implemented, using risk assessment principles, any special security measures on the import, export and transit movement of firearms, such as conducting security checks on the temporary storage, warehouses and means of transport carrying firearms, and requiring persons involved in these operations to undergo security vetting? If yes please give details.**

In the UK the import, export and transit of weapons and ammunition is heavily regulated. This includes carriers and transport operators. Security vetting is applicable and is carried out by a specialist UK Agency.

- **What special measures are used by the UK to prevent and suppress illegal trafficking in firearms, ammunition and explosives, utilised by terrorists.**

The UK has fostered a culture of self-regulation and compliance among UK exporting companies with the export controls that are in place. A Compliance Unit within the ECO is responsible for ensuring compliance with the conditions of Open Licences. Compliance teams visit holders of these licences to examine records (including end-use documentation) that the exporters are required to maintain as a condition of the relevant licence and to check that the systems and procedures for meeting the requirements of the licences are working properly.

1.23 The CTC is aware that the United Kingdom may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would be content would be content to receive a copy of any such report or questionnaire as part of the United Kingdom's response to these matters as well as details of any efforts to implement international best practices and standards which are relevant to the implementation of resolution 1373.

A possible candidate would be the UK's return for the 2002 OSCE Information Exchange on Small Arms and Light Weapons (SALW) (dated August 2003). The return was HMG's attempt to present a model return relating to export control matters with the overall aim of establishing a level of international best practice for other OSCE members.

2. Assistance and guidance

The United Kingdom shares the CTC's view of the importance of the provision of assistance and advice in connection with the implementation of Resolution 1373. The United Kingdom welcomes the CTC's recognition of the United Kingdom's efforts to provide assistance to other States in connection with the implementation of the Resolution and reiterates its determination to maintain and develop the constructive dialogue with the CTC.

The United Kingdom will continue to review the current UK entries in the Directory and will continue to supply the CTC with updates of its counter-terrorism assistance matrix on a six-monthly basis. The latest such update is enclosed with this letter.

United Nations S/2004/158

Security Council

Distr.: General
27 February 2004

Original: English

Letter dated 23 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 November 2003 (S/2003/1129). The Counter-Terrorism Committee has received the attached fourth report from Jamaica submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-25626 (E) 220304

Annex

Letter dated 20 February 2004 from the Permanent Representative of Jamaica to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In accordance with instructions from the Government, I have the honour to forward, pursuant to correspondence dated 12 November 2003, the report of the Government of Jamaica on issues raised by the Counter-Terrorism Committee (see enclosure). The Government of Jamaica reaffirms its cooperation in providing the Committee with further reports or information, as necessary, or if so requested by the Committee.

(*Signed*) Stafford **Neil**
Ambassador
Permanent Representative

Enclosure

Report of the Government of Jamaica to the Counter-Terrorism Committee

Effectiveness and protection of the financial system

1.1

The Bill entitled the Terrorism Prevention Act, 2003 (hereinafter "the Bill") was tabled in the House of Representatives on October 28, 2003. The purpose of this legislation is to implement Security Council resolution 1373. It is currently before the House of Representatives for consideration and its passage is anticipated in 2004. This piece of legislation is the vehicle through which Jamaica will also implement the terrorism conventions to which Jamaica is not yet a party. Once the legislation is passed, Jamaica would take the relevant steps to become a party to the outstanding conventions.

Clauses 15 and 16 of the Bill impose a duty on various legal entities to report on a continuing basis whether they are in possession or control of property owned or controlled by a 'listed entity.' A listed entity being one included on a list generated by the Director of Public Prosecutions on the basis that such an entity is believed to have committed or is suspected of having committed terrorist offences or has facilitated same. Clause 16 also imposes a duty to report any suspicious transactions. Failure to comply with these provisions constitutes an offence.

Since the Bill imposes reporting requirements and contemplates a parallel reporting regime to that in the Money Laundering Act, it was no longer necessary to amend the latter Act to include terrorism and terrorism financing as 'predicate offences.'

The Bill to amend the Bank of Jamaica Act to regulate money transfer and remittance agents/agencies was recently approved by the House of Representatives.

The adoption of the recommendations of the Financial Crimes Task Force is to be implemented through legislation. Accordingly, approval for the issuing of drafting instructions for a Bill to amend the Money Laundering Act to extend its application to include charities has been sought. Consequential amendments may also be necessary to related legislation.

Further, a new Bill is being drafted entitled the Proceeds of Crime Act, primarily to introduce civil forfeiture and to address certain operational issues with respect to money laundering and other financial crimes.

The Terrorism Bill facilitates the freezing of assets via the use of restraint and forfeiture orders as well as the seizure of property pursuant to search warrants.

Clause 35 of the Bill provides that the Court may make a restraint order against any property or 'applicable property,' whether it is situated inside or outside of Jamaica, where the defendant has been convicted of a terrorism offence, charged with a terrorism offence and there are reasonable grounds for believing that the defendant committed the offence.

Applicable property means property that has been used to facilitate or carry out a terrorism offence or is property that is realised from the commission of a terrorism offence.

A restraint order may prohibit the defendant or any other person from disposing of or otherwise dealing with the property or impose restrictions on the use of the property as the Court deems fit.

Clause 28 provides that the Court, upon the application of the Director of Public Prosecutions, may forfeit the property of a convicted defendant, wherever it is situated.

It should be noted also that Clause 24 of the Bill provides that a constable in the discharge of a search warrant is deemed authorised to seize property that he believes on reasonable grounds to be applicable property.

The Bill sets out the grounds for making such applications and the rights of the various parties before the Court in relation to said property. Orders may be made in relation to property that is not situated in Jamaica and in relation to the commission of an offence under Clause 6 of the Bill which provides that it is an offence for a Jamaican national outside of Jamaica to deal with property for terrorist purposes.

Effectiveness of Counter Terrorism Machinery

1.2

An extensive consultation and review of existing legislation, the international anti-terrorism instruments, foreign anti-terrorism legislation and the Commonwealth Secretariat Report of the Expert Working Group on Legislative and Administrative Measures to Combat Terrorism, by an Inter-Ministerial Working Group comprised of representatives from the Ministries of Justice, National Security, Foreign Affairs and Foreign Trade as well as the Attorney-General's Department, Office of the Chief Parliamentary Counsel (CPC), the Legal Reform Department, the Director of Public Prosecutions and the Bank of Jamaica, culminated in the drafting of the Terrorism Bill currently being debated in Parliament. This Bill, as previously noted, was tabled in October 2003 and its passage is anticipated in 2004.

1.3

Once domestic legislation is in place to facilitate local implementation of the provisions in the anti-terrorism instruments, Jamaica intends to accede or ratify the Agreements to which it is not yet a party. The passage of the Terrorism Prevention Bill, which is anticipated shortly, will ensure this process.

Jamaica is a party to the following Conventions:

- Convention on Offences and Certain Other Acts committed on Board Aircraft;
- Convention for the Suppression of Unlawful Seizure of Aircraft;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; and
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons.

Jamaica has signed the following Conventions:

- International Convention against the Taking of Hostages;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation; and
- International Convention for the Suppression of the Financing Terrorism.

No treaty action has yet been taken in relation to the following Conventions:

- Convention on the Physical Protection of Nuclear Material;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf;
- Convention on the Marking of Plastic Explosives for the purpose of detection; and
- International Convention for the Suppression of Terrorist Bombings.

Effectiveness of customs, immigration and border control

1.4

Jamaica imposes obligations with respect to the making of declarations and obtaining prior authorisation before the movement of cross border movement of cash, negotiable instruments, precious metals or gold is permissible.

The prohibition and restriction of goods are in the laws and regulations of different government agencies and departments. One of the functions of Jamaica Customs is to act as a 'watchdog' for these different institutions. Therefore, as it relates to the cross border movement of cash, precious stones and metal, Jamaica Customs is authorised to detain persons and goods that violate the Money Laundering Act, the Bank of Jamaica Act and the Trade Board Act. In addition, the Customs Department works in partnership with the Financial Investigation Division (FID) and reports suspicious cross border movements of imports and exports.

Customs Controls

Import

Jamaica Customs imposes restrictions on the amount of cash a person can have in his possession on entry to the country. In accordance with the Money Laundering Act (1996), a person entering the ports of Jamaica is obligated to declare ten thousand United States Dollars (US$ 10,000.00) or more, or its equivalent in any other legal currency or negotiable instrument. In the case where the person makes a declaration, the information is subsequently passed on to the Financial Investigation Division (FID).

With regard to the importation of precious stones and metal, there are no restrictions. However, a person entering the country is obligated to declare all items that are not used as personal effects. A tariff is levied on stones and precious metals. If there is suspicion surrounding the item, the Customs Official has the authority to notify the police and/or the FID.

Failure to declare any item in the prescribed manner constitutes false declaration or smuggling. This may result in prosecution under sections 209 and/or 210 of the Customs Act.

Export

Control is placed on the exportation of cash, negotiable instruments, precious stones and metals. Pursuant to the Bank of Jamaica Act and the Trade Board Act, it is obligatory that an exporter seek prior authorisation when exporting cash, precious metals or stones. This is achieved by obtaining an export license. The exporter is also obligated to declare the items being exported.

1.5

The Draft Bill entitled the Port Security Act is currently being examined by the relevant government agencies. On completion of this exercise the draft Bill will be amended, if necessary, before being presented for consideration by the Legislation Committee.

1.6

Sections 3–8, Chapter II of the Constitution of Jamaica, provide that persons may become citizens of Jamaica in accordance with constitutional provisions by birth, descent or registration based on marriage to a Jamaican citizen.

Citizenship by birth includes birth on board a ship or aircraft registered in Jamaica or belonging to the Government of Jamaica.

A person born outside of Jamaica becomes a citizen of Jamaica on the date of his birth, if at such date his mother or his father is a citizen of Jamaica.

Citizenship by descent is not limited to first generation or indeed any family generation and may be acquired upon sufficient documentary evidence that the applicant is the descendant of a Jamaican national.

Marriage to a Jamaican citizen entitles the spouse to acquire Jamaican citizenship by registration. However, such registration may be denied if the marriage was contracted primarily to enable the acquisition of Jamaican citizenship, where the parties have no intention to live permanently as spouses after marriage or where the spouse had been convicted in any country of a criminal offence specified in any law that makes provisions for the denial on the grounds of conviction.

A person who is a Jamaican citizen by virtue of birth or descent may not be deprived of such citizenship. However, persons who acquire Jamaican citizenship by registration or naturalization may be deprived of such citizenship where the law so provides.

Section 3 of the Jamaican Nationality Act provides that Commonwealth citizens or a citizen of the Republic of Ireland, of full age and capacity, at the discretion of the Minster of National Security, may be registered as a citizen of Jamaica if he has been ordinarily resident or in the service of the Crown or the Government of Jamaica for a five (5) year period preceding the application for registration.

Similarly, under Section 6, an alien or a British protected person of 'full age and capacity' may be registered as a citizen of Jamaica, provided that certain qualifications are satisfied. In the case of an alien, these qualifications are:

- Has resided in Jamaica for twelve (12) months preceding the date of application;
- That during the preceding seven years, prior to the twelve (12) month period, has resided for periods in aggregate of at least four (4) years;
- Is of good character; and
- Intends to reside in Jamaica.

In the case of a British protected person, ordinary residence for at least five (5) years or such less time as the Minister of National Security may in special circumstances accept.

Once the applicant has satisfied these various qualifications, a certificate of naturalization is issued and upon taking the prescribed oath of allegiance, the applicant becomes a citizen of Jamaica as of the date of the Certificate of Naturalization.

The Jamaican Nationality Act makes provisions for the renunciation of Jamaican citizenship, for example, dual nationality. As previously indicated, deprivation of citizenship acquired by naturalization can occur for treason or conviction of a crime in any country within five years after becoming naturalized, for a period of imprisonment of at least twelve (12) months.

The Act also provides for the restoration of Jamaican citizenship to persons who had acquired Jamaican citizenship by virtue of birth, descent or adoption and who had renounced their citizenship.

Generally, the application process for Jamaican citizenship involves producing the relevant documentary evidence to support the applicant's claim. Depending on the nature of the application, such documents may include birth certificates, marriage certificates, work permits, among others.

Issuance of Jamaican Passports

The Passport Act provides that the Minster of National Security may issue passports to citizens of Jamaica as well as permits to leave Jamaica, certificates of identity or travel documents.

A Jamaican passport is valid for a ten (10) year period from the date of issue and it may be restricted for use to specified countries.

It is an offence for any person to:

- alter, tamper or unlawfully posses a Jamaican passport;
- fail or neglect to send a passport within seven (7) days of finding one to the Passport Officer or to the Officer in charge at the nearest police station;
- part with possession of it to a person without lawful authority or for an unlawful purpose;
- destroy or by wilful neglect allow another to obtain possession of the passport,
- make declaration, without having actual knowledge of an applicant for a passport, verifying the applicant's declaration or vouching for his fitness to receive a passport, merely on information provided by the applicant or other persons; and
- use the passport in a manner inconsistent with any country specification it may be restricted to.

Penalties to which an offender may be liable on summary conviction is to a term of imprisonment with or without hard labour for a year or a fine.

The procedure for obtaining a Jamaican passport involves the submission of an application form with the relevant support documentation (for example, birth certificate, certificate of adoption, naturalization, and in case of a change of name, Marriage Certificate, Deed Poll) substantiating the applicant's identity and assertion of Jamaican citizenship, accompanied by certified photographs of the applicant. Documentary evidence is examined for authenticity and the application processed by the Immigration, Passport and Citizenship Services Division, on satisfaction of which and on payment of the relevant fees, the passport is issued.

Effectiveness of Controls to Prevent Access to weapons by terrorists

1.7 The Firearms Act, the Explosives (Control of Manufacture) Act and the Gunpowder and Explosives Act are still under review.

United Nations S/2004/159

Security Council

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27 February 2004

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Letter dated 23 February 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 2 December 2003 (S/2003/1151). The Counter-Terrorism Committee has received the attached fourth report from Mauritius submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

04-25632 (E) 220304

Annex

Letter dated 23 February 2004 from the Permanent Representative of Mauritius to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

We refer to the letter, dated 21 November 2003, from the Chairman of the Counter-Terrorism Committee pursuant to the third report of the Government of the Republic of Mauritius.

In this context, we have the honour to submit herewith the reply of the Government of the Republic of Mauritius (see enclosure).

(*Signed*) A. **Hurree**
for Head of Mission

Enclosure*

Reply pursuant to Letter 3 from the UNSC Counter-Terrorism Committee

Implementation Measures

Introduction

In its Third Report on the implementation of measures contained in UNSC Resolution 1373(2001), the Republic of Mauritius informed the Counter-Terrorism Committee of the enactment of the Prevention of Terrorism Act (POTA) 2002, the Financial Intelligence and Anti-Money Laundering Act 2002(FIAMLA), the Prevention of Corruption Act 2002 (POCA) and the Prevention of Terrorism (Special Measures) Regulations 2003 which came into operation on 25 January 2003.

The Government of Mauritius in its resolve to address terrorism in all its forms and manifestations in fulfillment of its commitment to implementing UNSC Resolution 1373(2001) adopted the following:

- The Prevention of Terrorism (Special Measures)(Amendment) Regulations which came into effect on 19 March 2003;
- The Financial Intelligence and Anti-Money Laundering Regulations 2003 were made on 19 June 2003 and came into effect on 21 June 2003;
- The Anti-Money Laundering (Miscellaneous Provisions) Act, which was passed in August 2003; and
- The Convention for the Suppression of Financing of Terrorism Act 2003. It was passed in August 2003 and came into operation on 22 November 2003.

The Republic of Mauritius:

(i) acceded to the UN Convention for the Suppression of Terrorist Bombings on 24 January 2003;

(ii) ratified the UN Convention Against Transnational Organized Crime on 18 April 2003; and

(iii) acceded to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents on 24 September 2003.

On the regional front, Mauritius acceded to the OAU Algiers Convention on the Prevention and Combating of Terrorism on 21 February 2003 and is actively participating in the negotiations that would lead to the adoption of a Protocol to the Algiers Convention and a Plan of Action and a Code of Conduct on Terrorism.

* Annexes are on file with the Secretariat and are available for consultation.

The Prevention of Terrorism (Special Measures) Regulations 2003[1]

The Prevention of Terrorism (Special Measures) Regulations 2003, which came effect on 25 January 2003, provide for the freezing of assets and funds of suspe international terrorists and terrorist groups pursuant to Part II section 10(6) of the POTA 2 Regulation 3 makes provision for the Central Bank, or the Financial Services Commissio give directives to financial institutions under its regulatory authority to freeze any acc property or funds held on behalf of any listed terrorist by those institutions and cash dea Regulations 7 and 8 clearly list the offences purporting to funds, financial assets or econ resources that are made available, directly or indirectly, to listed individuals or entities o their benefit, by nationals or by any person within the territory of Mauritius.

The Financial Intelligence and Anti-Money Laundering Regulations 2003[2]

The Financial Intelligence and Anti- Money Laundering Regulations 2003 were m on 19 June 2003. The Regulations provide for the verification of the true identity o customers and other persons with whom banks, financial institutions and cash dealers con transactions and reinforce the framework that was existing in the Banking Act.

The Anti-Money Laundering (Miscellaneous Provisions)Act 2003[3]

The main object of the Act was to amend the Financial Intelligence and Anti-Mo Laundering Act 2002 to provide in effect for the formal setting up of the National Comm for Anti-Money Laundering and Combating of the Financing of Terrorism and replacement of the Review Committee of the Financial Intelligence Unit (FIU) by a Board this Act, the Financial Intelligence Unit is, moreover, empowered to issue guideline financial institutions, cash dealers and Members of the relevant professions or occupation the manner in which they should submit Suspicious Transaction Reports (STRs) to the Moreover, through this Act, the Bank of Mauritius and the Financial Services Commission issue codes and guidelines on anti-money laundering and the combating of financing terrorism and to enforce compliance with those codes and guidelines. A derogation from duty of confidentiality is provided for banks to allow them to report suspicious transact and supply information relating to a reported suspicious transaction to the FIU. Simila through this Act, the Bank of Mauritius and the Financial Services Commission are allowe refer information suggesting a possible money-laundering offence or a suspicious transac to the FIU. The Director of the FIU is also given the power to request further informatio relation to a reported suspicious transaction.

[1] Please see annex 1
[2] Please see annex 2
[3] Please see annex 3

The Convention for the Suppression of Financing of Terrorism Act 2003[4]

On 11 November 2001 the Government of Mauritius signed the International Convention for the Suppression of the Financing of Terrorism adopted by the General Assembly of the United Nations in 1999. Mauritius upgraded its domestic legislation to give force of law to the International Convention for the Suppression of the Financing of Terrorism and to provide for matters ancillary thereto. To this effect, the Convention for the Suppression of the Financing of Terrorism Act was passed in August 2003 and came into operation on 22 November 2003.

Effectiveness in the protection of the financial system

1.1 The third report from Mauritius states (at page 3) that the Financial Intelligence Unit (FIU) became operational in December 2002. The CTC would be pleased to receive a description of the structure, staffing levels and powers of the FIU. Please provide data concerning the requirements referred to immediately above.

Please see Annex 5

1.2 The third report also states (at page 3) that the Anti-Money Laundering Act 2002 (FIAMLA) was proclaimed on 10 June 2002. Effective implementation of paragraph 1 of the Resolution requires that financial institutions and other intermediaries (for example, lawyers, notaries and accountants, when engaged in brokering activities, as distinct from the provision of professional advice) should be under a legal obligation to report suspicious transactions. The CTC would appreciate receiving a list of the persons and entities required under current legislation to report suspicious transactions. The CTC would also appreciate being informed about the penalties for non-compliance with the obligation to report suspicious transactions. Please provide information to the CTC indicating the number of:

- ***Suspicious Transaction Reports (STRs) received by the FIU, and***
- ***Any administrative or penal sanctions imposed for failure to comply with such reporting obligations.***

Section 14 of the Financial Intelligence and Anti Money-Laundering Act 2002[5] (FIAMLA) stipulates that banks, financial institutions, cash dealers and members of the relevant professions or occupations have the obligation to make a Suspicion Transaction

[4] Please see Annex 4

[5] The Financial Intelligence and Anti-Money Laundering Act 2002 can be consulted at the following website :http://ncb.intnet.mu/medrc/index.htm

Report (STR) to the Financial Intelligence Unit on any transaction which they have a reason to believe is a suspicious transaction.

The Financial Intelligence Unit (FIU) has issued a Guidance Note[6] which is in force since 30 January 2003 on STR (Suspicious Transaction Report – Guidance Note 1(2003). This Guidance Note is intended for reporting institutions/persons. It establishes how to identify a suspicious transaction, particularly providing for indicators relating to terrorist activity financing. The Guidance Note lists down the reporting institutions/persons who are required to report suspicious transactions to the FIU, namely:

- Financial institutions as defined under the Financial Intelligence and Anti-Money Laundering Act 2002;
- Category 1 and Category 2 banks;
- Life insurance Companies, Brokers and Agents;
- Securities Dealers, including Portfolio Managers and Investments Counsellors;
- Persons or Entities engaged in the business of foreign exchange dealing;
- Accountants, Accounting Firms and Chartered Secretaries (when carrying out certain activities on behalf of their clients);
- Casinos (including those authorized to do business in Mauritius, with a slot machine or roulette or card games), bookmakers or totalisators under the Gaming Act;
- Barrister, Attorney-at-Law, Notary and Legal Firms (when carrying out certain activities on behalf of their clients);
- Others: These include Real Estate Brokers or Sales Representatives (when carrying out certain activities on behalf of their clients), or Mauritius Post Office for money orders.

The penalty for non-compliance with the reporting of suspicious transactions is a fine not exceeding one million rupees and imprisonment for a term not exceeding 5 years.

Under section 15 of the FIAMLA, every report lodged with the Financial Intelligence Unit has to include the following:

- The identification of the party or parties to the transaction;
- The amount of the transaction, the description of the nature of the transaction and all the circumstances giving rise to the suspicion;
- The business relationship of the suspect to the bank, financial institution, cash dealer or member of relevant profession or occupation, as the case may be;
- Where the suspect is an insider, any information as to whether the suspect is still affiliated to the bank, financial institution, cash dealer or member of the relevant profession or occupation as the case may be
- Any voluntary statement as to the origin, source or destination of the proceeds;
- The impact of the suspicious activity on the financial soundness of the reporting institution or persons; and
- The names of all officers, employees or agents dealing with the transaction.

[6] Please see Annex 6

The Financial Intelligence Unit has therefore devised a Form[7] for the afore-mentioned persons/institutions to report a person/entity if they have reason to suspect that a transaction is related to money-laundering, proceeds of any crime or financing of activities related to terrorism.

Suspicious Transactions Reports (STRs) are dealt with diligently by the FIU, which investigates and updates the files and prepares intelligence reports. A Seminar was organized by the Financial Intelligence Unit on 28 May 2003 where relevant stakeholders were explained through a case study how STRs are reviewed and evaluated.

As at the end of December 2003, the FIU had received 175 STRs mainly from banks and Management Companies. It may be noted that 14 of these STRs were received from investigatory bodies and 4 from supervisory bodies. (Please see Annex 5.)

Please note that the Financial Intelligence Unit has been officially admitted as a Member of the EGMONT Group of FIUs on 23rd July 2003 and Mauritius is the Regional Representative of African FIUs on the EGMONT Committee.

1.3 Sub-paragraph 1 (c) of the Resolution requires States to freeze funds and other financial or economic resources related to terrorism. In this regard, does Mauritius have a separate authority or agency responsible for seizing and confiscating terrorist related assets? The CTC would appreciate receiving an outline of the legal basis for the establishment of such an authority or agency, as well as an outline of its functions. The CTC would also welcome an account of the legal provisions providing for the review of decisions taken by such an authority or agency.

Mauritius does not have a separate authority or agency responsible for seizing and confiscating terrorist related assets.

Section 4 (4) of the Convention for the Suppression of Financing of Terrorism Act 2003 provides for the Court to order the forfeiture of funds which were, or intended to be, used for, or in connection with, the offence or funds which constitute the proceeds of the offence.

Section 5 of the Convention for the Suppression of Financing of Terrorism Act 2003 provides for the Judge in Chambers, if satisfied on an *ex-parte* application made by the Commissioner of Police, that there are reasonable grounds to believe that there is any building, place, or vessel, any property in respect of which an order of forfeiture may be made to issue a warrant authorising a police officer to search the said building, property, place or vessel and to seize that property if found , and any other property which that police officer believes, on reasonable grounds, that an order of forfeiture may be made under section 6 of the Act. The Judge may also issue a restraint order prohibiting any person from disposing of, or otherwise dealing with any interest in, that property, other than as may be specified in the order.

[7] Please see Annex 7

On an application the Judge in Chambers may, where the circumstances so require, appoint the Official Receiver, or any other suitable person to take control of, manage or otherwise deal, with the whole or a part of the property, in accordance with the directions of the Judge.

The Judge in Chambers may require any person having possession of the said property to give possession thereof to the person appointed by him/her. Before the person appointed by the Judge destroys any property referred to above, he shall apply to the Judge in Chambers for a destruction order.

The Commissioner of Police may make an application to a Judge in Chambers for an order of Forfeiture in respect of terrorist property. Notice of an application order is to be given to the respondents in such a manner as the Judge may direct.

It is to be noted that before making an order for forfeiture of funds, the Court shall give every person appearing to have an interest in the funds, an opportunity of being heard.

Funds forfeited to the State shall vest in the State if no appeal is made against the forfeiture within a period of time allowed for appeal and if an appeal has been made against the order, on the final determination of the appeal.

However as provided for under section 6(9) of the Suppression of Financing of Terrorism Act 2003, pending the determination of an appeal against an order of forfeiture, property restrained shall continue to be restrained, and property seized under a warrant shall continue to be detained, and any person appointed to manage, control, or otherwise deal with the property shall continue in that capacity.

In addition, it is to be pointed out that the Regulation Number 3 of the Prevention of Terrorism (Special Measures) Regulations 2003, provides for the Central Bank or the Financial Services Commission, upon publication of a declaration in the Gazette under section 10(7) of POTA 2002, to direct that any account, property or funds held by financial institutions under its regulatory authority on behalf of any listed terrorist organisation to be frozen and report to be made to it in such form and manner as it deems fit. However, on a report being made on this matter it is further referred to the Commissioner of Police for investigation and seizure and confiscation of terrorist-related assets.

1.4 The CTC would appreciate receiving up to date information about the number of cases in which financial assets have been frozen, as well as the number of individuals or entities whose property has been frozen, because of suspected connections with the financing of terrorism.

None

1.5 Sub-paragraph 1 (d) of the Resolution requires States to have legal measures in place to regulate alternative money remittance agencies/transfer services. The second report from Mauritius states (at page 7) that "money changers and foreign exchange dealers are regulated under the Foreign Exchange Dealers Act 1995". Please outline the legal provisions which are in force in Mauritius with a view to regulating alternative money remittance agencies, transfer services. Can alternative money remittance agencies/transfer services conduct business in Mauritius without being registered or licensed?

There are no alternative money remittance agencies/transfer services in Mauritius. All money remittance agencies in Mauritius are regulated and comprise the formal and official channels namely, banks and foreign Exchange dealers

Alternative money remittance agencies are prohibited in Mauritius. It is an offence under Mauritian law for persons including corporates to conduct banking business on foreign exchange dealers business without a licence from the regulator i.e. the Bank of Mauritius.

Section 3(2) of the Banking Act 1988[8] provides that no person shall transact any category 1 and category 2 banking in Mauritius without a licence from the Central Bank. Section 12(1) provides that no category 1 banking and category 2 banking shall be transacted except by a bank. Section 13 provides for the examination of books, records and accounts by the Central Bank in cases of suspected unlicensed banking. Section 13A(1) prohibits the business of deposit-taking without the written authorization of the Central Bank.

Section 3(1) of the Foreign Exchange Dealers Act 1995[9] provides for specified types of legal persons to carry out the business of a foreign exchange dealer or a money-changer if they obtain the authorization of the Minister to whom responsibility for the subject of finance is assigned.

Furthermore, with the exception of certain exempt transactions, any person who makes or accepts any payment in cash in excess of Rs 350,000 (approximately US$ 10,000) be it through the banking channel or otherwise, shall, under the Financial Intelligence and Anti-Money Laundering Act 2002, commit an offence in Mauritius.

Regulations made by the Minister under the Financial Intelligence and Anti-Money Laundering Act proscribe the opening of anonymous or fictitious accounts in Mauritius. Furthermore, proper identification of customers and record keeping are required.

Accordingly there cannot be any money transmission agencies/transfer services of any nature in Mauritius, without a licence.

[8] The Banking Act 1988 can be consulted at the following website: http://bom.intnet.mu

[9] The Foreign Exchange Dealers Act 1995 can be consulted at the following website :http://bom.intnet.mu

Effectiveness of counter terrorism machinery

1.6 The CTC would appreciate receiving a progress report and an outline of the new Bill that "will explicitly and more clearly deal with" the requirements of sub-paragraph 2(d) and (e) of the Resolution, as mentioned in Mauritius third report.

The Convention for the Suppression of Financing of Terrorism Act 2003 has been enacted in August 2003 and entered into operation on 22 November 2003 . See Annex 4

The Act makes it an offence for any person who finances acts of terrorism or is involved in offences under the Prevention of Terrorism Act 2002 and offences under the Civil Aviation (Hijacking and other Offences) Act. The Convention for the Suppression of the Financing of Terrorism Act 2003 provides in section 4 that it is not necessary that the funds were actually used to carry out the offence.

The Court before which a person is convicted of an offence in relation to the financing of terrorism may, in addition to any penalty imposed by the Court, order the forfeiture of funds which:

(a) were, or intended to be, used for, in connection with, the offence; or
(b) constitute the proceeds of the offence.

Further, where the Judge in Chambers is satisfied, on an ex parte application made by the Commissioner of Police, that there are reasonable grounds to believe that there is any building, place or vessel, any property in respect of which an order of forfeiture may be made, the judge may issue a warrant authorising the police to search the building, place or vessel for that property and to seize that property if found, and any other property in respect of which the police officer believes, on reasonable grounds that an order of forfeiture may be made by the Judge.

Jurisdiction: A Mauritian Court has jurisdiction to try an offence under 'The Convention for the Suppression of the Financing of Terrorism Act 2003' in every case where the act constituting an offence:

(a) is committed in Mauritius;
(b) is committed on board a vessel or aircraft registered in Mauritius;
(c) is committed by a national of Mauritius, whether the act constituting the offence is committed within or outside, Mauritius;
(d) is committed by a person who is, after the commission of the act, present in Mauritius whether the act constituting the offence is committed within or outside Mauritius and he cannot be extradited to a foreign state having jurisdiction over the offence.

It is to be noted that the offence of financing acts of terrorism is an extraditable offence.

1.7 The CTC would be grateful for information concerning the number of persons prosecuted in Mauritius for:

- ***terrorist activities,***
- ***activities related to the financing of terrorism,***
- ***recruitment for terrorism,***
- ***other activities providing support for terrorists or terrorist organisations.***

How many of the persons, referred to above, have been prosecuted for inviting support (including recruitment) for:

- ***proscribed organisations; and***
- ***other terrorist groups or organisations?***

There has been no prosecution against any person so far for terrorist activities, activities related to the financing of terrorism, recruitment for terrorism and other activities providing support for terrorists or terrorist organisations. No person in Mauritius has been prosecuted for inviting support for proscribed organisations and other terrorist groups or organisations.

1.8 Sub-paragraph 2 (e) requires that terrorists and their supporters be brought to justice. In that regard, the CTC would be grateful for an outline of any legislation enabling the use of special investigative techniques in the fight against terrorism, for example, undercover police operations, controlled deliveries and the monitoring and/or the interception of communications (such as the internet, radio, audio-visual media and other advanced communications techniques).

Section 25 of the Prevention Against Terrorism Act 2002 provides that the Minister responsible for the subject of national security may, for the purposes of the prevention or detection of offences, or the prosecution of offences under the Prevention of Terrorism Act 2002, give such directions as appear to him necessary, to communication service providers. The direction given shall specify the maximum period for which a communication service provider may be required to retain communication data.

Furthermore, the police may apply to the Judge in Chambers for an order authorising a public operator, or any of its employees or agents, to intercept, withhold or disclose to the police, an information or communication message, including a telecommunication message.

1.9 In order to bring terrorist and their supporters to justice, as required by sub-paragraph 2 (e), it is necessary that members of the judiciary, law enforcement and witnesses conduct their duty unobstructed. In that regard could Mauritius outline legislation and programs in place, without compromising any sensitive information, to protect members of the judiciary, law enforcement officers, witnesses and persons willing to provide information, from intimidation and injury by terrorists?

It is to be noted that there is no specific legal provision dealing with the issue of protection of members of the judiciary, law enforcement officers, witnesses and persons willing to provide information, from intimidation and injury by terrorists.

However, there are regulations which allow the Commissioner of Police to provide protection to any person who reasonably believes that he may be subject to intimidation or injury.

1.10 The CTC notes from the supplementary report (at page 4) that the Prevention of Terrorism Act (POTA) 2002 provides for the proscription of organisations engaged in terrorism. It also notes that the Act provides for the designation as an international terrorist group of any organisation so listed by the United Nations Security Council or the Council of the European Union. Please outline the procedures in place to prescribe a terrorist organisation at the request of another State.

The application to declare an entity to be a proscribed organisation is made before the Judge in Chambers. An order granted by the Judge is published in the Government Gazette, in two daily newspapers and at such other places, as the Judge in Chambers determines.

1.11 In regard to sub-paragraph 3 (d) which calls on States to become parties to the relevant a further progress report on the ratification of or accession to the 12 international instruments related to terrorism to which Mauritius is not yet a party and the implementation into Mauritian Law of the instruments to which it is a party.

Status of Signature and Ratification/Accession to the 12 International Instruments related to Terrorism are attached herewith. ***See Annex 8***

Effectiveness of customs, immigration and border control

1.12 Effective implementation of paragraphs 1 and 2 of the Resolution requires effective customs and border controls to prevent and suppress the financing of terrorist activities. Does Mauritius impose controls on the cross-border movement of liquid cash, negotiable instruments, precious stones and metals? For example, does Mauritius impose an obligation to make a declaration or to obtain prior authorisation before any such movement takes place? Please provide information concerning any relevant monetary or financial thresholds.

There is no foreign exchange control in Mauritius.

Section 35 of the Consumer Protection (Price and Supplies Control) Act[10] provides that the Minister to whom responsibility for consumer protection is assigned may make such regulations as he deems fit for the purposes of the Act and for the purposes of regulating trade, supply and prices. Import and Export of rough diamonds are subjected to the Kimberley Process Certification which is issued by the Ministry of Commerce and Co-operatives.

Accordingly, the Minister has, by virtue of powers vested in him, under the Consumer Protection (Price and Supplies Control) Act made regulations requiring licence for the import and export of gold and diamonds. Under the Consumer Protection (Control of Imports) (Amendment No 4) Regulations 2003[11], rough diamonds imported directly or indirectly from Sierra Leone are now prohibited goods in Mauritius. Similarly, under the Consumer Protection (Control of Imports) Regulations 2002[12], diamonds including rough ones originating from Liberia are prohibited goods.

Mauritius is party to the Kimberley Process Certification Scheme.

Furthermore, under the Customs Act[13], customs officers are empowered to arrest persons involved in the commission of smuggling, importing and exporting of prohibited goods, which are criminal offences in Mauritius. Those powers are also conferred upon police officers under the Police Act[14].

1.13 Paragraph 2 of the Resolution also requires States to prevent the movement of terrorists and the establishment of safe havens. With regard to the implementation of sub-paragraphs 2 (c) and (g) of the Resolution, the CTC would appreciate receiving information as to whether Mauritius has established any procedure for supplying advance information concerning international cargo and passengers to its relevant authorities, as well as to those of other States, with a view to enabling the authorities in question to screen for prohibited cargo and suspected terrorists before disembarkation.

Section (49) of the Customs Act 1988 provides for submission of information concerning International Cargo and passengers as follows:

(a) In the case of a ship:
- arriving from the neighbouring Reunion Island, not later than 5 hours before arrival; and
- arriving from any other part, not later than 24 hours before arrival

[10] The Consumer Protection (Price and Supplies Control) Act 1998 can be consulted at the following website : http://www.gov.mu.acts.htm
[11] Please see Annex9(i)
[12] Please see Annex 9(ii)
[13] Please see Annex 10
[14] Please see Annex 11

(b) In the case of an Aircraft:

- arriving from Reunion island, upon arrival ; and
- arriving from any other airport, not later than one hour before arrival.

The Immigration Act[15] regulates the entry and stay of non-citizens in Mauritius. The Act provides for the establishment of the list of prohibited immigrants who shall not be admitted to Mauritius. "Prohibited Immigrants" include persons who are involved in criminal activities, engaged in drug trafficking, or reasonably suspected to be engaged in any subversive activity of any kind directed against Mauritius or detrimental to the security of Mauritius or any friendly State. It also provides for the issue of residence permits and refusal of admission to Mauritius and prevention of unauthorised disembarkation, and for powers to inspect vessels, to examine passengers and members of the crew and for detention for the purpose of being removed from Mauritius. No provision for asylum is made in the Act. In fact, Section 8 of the Immigration Act has been amended by the Prevention of Terrorism Act to include non-citizens who are declared suspected international terrorists as prohibited Immigrants.

Under Section 10(6)(b) of the Prevention of Terrorism Act 2002 , the Minister to whom responsibility for the subject of national security is assigned may, with respect to any suspected international terrorist or an international terrorist group, make regulations to provide for the prevention of his or its entry into , or transit in Mauritius.

1.14 Please outline the legal provisions and other procedures in place which govern the acquisition of Mauritian citizenship and passport.

Acquisition of Mauritian Citizenship

The legislation that govern citizenship issues for the Republic of Mauritius are:

(i) The Constitution of the Republic of Mauritius (Chapter III)[16];
(ii) The Mauritius Citizenship Act[17].

The Constitution spells out conditions under which persons who are born in or outside Mauritius shall become a citizen of Mauritius.

Additionally, the Mauritius Citizenship Act provides for registration of Commonwealth citizens, minor children and other persons such as spouses of Mauritians, as citizens of Mauritius. Other sections of this legislation deal with naturalisation and resumption of Mauritian citizenship by persons who have lost their nationality.

The criteria for grant of Mauritian citizenship under these clauses are clearly specified under the law.

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[15] The Immigration Act can be consulted at the following website :http://www.gov.mu/acts.htm
[16] Please see Annex 12
[17] Please see Annex 13

Acquisition of Mauritian Passport

The issue of passports to citizens of Mauritius is governed by the Passports Act and the Regulations made under the Act[18]. A passport is issued by the Passport and Immigration Office to a citizen of Mauritius who has to satisfy conditions relating to his nationality and his identity. A Mauritian passport is, unless otherwise stated, valid for a period of ten years. Every passport is issued on the following conditions:

(i) it will remain the property of the Government of Mauritius; and

(ii) it may be withheld or withdrawn at any time by the Passport and Immigration Officer.

Effectiveness of controls preventing access to weapons by terrorists

1.15 Sub-paragraph 2 (a) of the Resolution requires each Member State, inter-alia, to have in place appropriate mechanisms to control and deny terrorists access to weapons. The second report from Mauritius states (at page 8) that "the Firearms Act is being reviewed to be more comprehensive and to call for more stringent measures". The CTC would welcome a progress report on the adoption of the aforementioned legislation. Has Mauritius established a national reporting or auditing procedure to detect the loss or theft of hazardous materials, such as radiological, chemical and biological substances, together with their waste products, from government or private sources?

Work on the amendment of the **Firearms Act** is progressing. The Act is being reviewed, *inter alia*, to incorporate our obligations under the following Protocols of which Mauritius is signatory:

(i) United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its Aspects;

(ii) Bamako Declaration on an African Common Position on the illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons – 1 December 2000;

(iii) Protocol against the illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime; and

(iv) Protocol on the Control of Firearms, Ammunition and other related materials in the Southern African Development Community (SADC) Region (signed on 14 August 2001 in Blantyre, Malawi).

It is to be noted that although Mauritius does not produce any weapon or ammunition, the following legislation are in place:

(i) the Explosives Act[19];

(ii) the Firearms Act[20];

[18] Please see Annex 14
[19] Please see Annex 15
[20] Please see Annex 16

(iii) the Prevention of Terrorism Act and the Prevention of Terrorism (Special Measures) Regulations; and

(iv) the Chemical Weapons Convention Act[21].

Under the **Explosives Act** and the **Firearms Act**, a permit is required before importing items under the established arms embargo. Such a permit is to be issued by the Commissioner of Police further to the latter's satisfaction that the requirements under existing laws are respected.

Under the Prevention of Terrorism Act, there are strict restrictions and severe penalties for persons furnishing terrorists, terrorist organizations and other individuals, groups, undertakings and entities associated with such goods.

Regulation 9 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no person shall, directly or indirectly, export, sell, supply or ship any arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related material to any listed terrorist.

Regulation 10 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no owner or master of a Mauritius ship and no operator of an aircraft registered in Mauritius shall, directly or indirectly, carry or cause or permit to be carried any arms, weapons, ammunitions, military vehicles and equipment, paramilitary equipment, spare parts and related materials for any listed terrorist.

Regulation 11 of the Prevention of Terrorism (Special Measures) Regulations 2003 provides that no person shall directly or indirectly provide any listed terrorist with technical advice, assistance or training related to military activities.

Under Regulation 12 of the Prevention of Terrorism (Special Measures) Regulations 2003, it is an offence to contravene these Regulations.

Mauritius has implemented new legislation, namely the Chemical Weapons Convention Act since 7 May 2003 to enhance our control on the development, production, stockpiling and use of chemical weapons, their precursors and chemicals which could be used for the making of chemical weapons. This Act has strict provisions dealing with the trafficking of arms and chemical weapons. This Act came into effect on 16 February 2004.

Cases of theft of hazardous materials are handled by the Criminal Branch of the Police, assisted by Forensic Officers. Special attention is given to such cases.

1.16 ***The CTC is aware that Mauritius may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organisations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Mauritius's response to these matters as well as details of any efforts to implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.***

[21] Please see Annex 17

A copy of the Report of the Financial Sector Assessment Programme (FSAP) of the World Bank/IMF on Observance of Standards and Codes is at Annex 18.

Assistance and Guidance

2.1 ***The CTC wishes to emphasise once more the importance which it attaches to the provision of assistance and advice in connection with the implementation of Resolution 1373. The Committee is therefore anxious to maintain and develop the constructive dialogue which it is already engaged in with Mauritius in relation to this priority area.***

Mauritius is willing to provide assistance to other States to help them implement the measures contained in the UNSC resolutions.

Contacts with the Commonwealth Secretariat have indicated that the Prevention of Terrorism Act 2002 could serve as a model legislation that could be adopted by other States in the combating of terrorism. The Republic of Mauritius would be pleased to share its expertise acquired in the drafting of appropriate legislation and regulations with other States. Mauritius may also provide the services of resource persons for international and regional workshops relating to the combating of terrorism. Copies of current legislation and current regulations could be made available to interested States.

The Passport and Immigration Office has stressed the need for the training of its personnel in immigration control and has expressed the wish to obtain sophisticated equipment for the verification of travel documents.

2.2 As regards Mauritius' request for assistance to the CTC, the CTC's Technical Assistance Team is seeking a donor country or institution which is in a position to provide assistance. The CTC also notes that its Technical Assistance Team has met with a representative of the Government of Mauritius to discuss potential sources of assistance and advice.

2.3 Further, should the Government of Mauritius have the need for assistance or guidance in the area of Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT), the CTC draws the Government's attention to the IMF/World Bank joint AML/CFT programme. In particular, such assistance or guidance may include the drafting of legislation relating to AML/CFT, including the review of already drafted or adopted legislation for compliance.

2.4 If the Government of Mauritius feels that it could benefit from discussing aspects of the implementation of the Resolution with the CTC's experts, it is welcome to contact them as mentioned in paragraph 3.1 below.

2.5 *At this stage of its work, the CTC will focus on requests for assistance that relate to Stages "A" and "B" matters. However, the assistance to be provided by one State to another on any aspect of the implementation of the Resolution is a matter for agreement between them. The CTC would be grateful to be kept informed of any such arrangements and on their outcome.*

Submission of further report

3.1 *The CTC and its experts stand ready to provide further clarification to the Government of Mauritius on any of the matters raised in this letter. The experts can be contacted through Ms. Simone Dempsey (telephone: +1 212 457 1081 or +1 212 457 1266; e-mail: dempsey@un.org or etc@un.org)*

3.2 *The CTC would be grateful to receive further information on the questions and comments raised in this letter from the Government of Mauritius; by (3 months of the date of this outgoing letter). As with previous reports, it is the intention of the CTC to circulate the further report as a document of the Security Council. It is open to the Government of Mauritius, if desired, to submit a confidential annex to the report for the attention of the CTC members only.*

3.3 *The CTC may, in a future stage of its work, have further comments or questions for the Government of Mauritius arising from other aspects of the Resolution. It would be grateful to be kept informed of all relevant developments regarding the implementation of the Resolution by the Government of Mauritius.*